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### plan

The United States Federal Government should restrict the President’s war powers authority for targeted killing as a first resort outside zones of active hostilities.

### allies

Plan is already squo policy - but only legal codification solves European cooperation and international norms

Dworkin 12

Anthony Dworkin is a Senior Policy Fellow at the European Council on Foreign Relations, European Council on Foreign Relations, June 19, 2012, "Obama’s Drone Attacks: How the EU Should Respond", http://ecfr.eu/content/entry/commentary\_obamas\_drone\_attacks\_how\_the\_eu\_should\_respond

Obama’s Concession to European Views

In a speech on the subject last autumn, Obama’s chief counter-terrorism advisor John Brennan gave a glimpse into the administration’s discussions with some of its European allies. Brennan acknowledged that a number of the United States’ closest partners took a different view about the scope of the armed conflict against al-Qaeda, rejecting the use of force outside battlefield situations except when it was the only way to prevent the imminent threat of a terrorist attack. He went on to say that the United States depended on the assistance and cooperation of its allies in fighting terrorism, and that this was much easier to obtain when there was a convergence between their respective legal views. Increasingly, Brennan argued, such convergence was taking place as a matter of practice, as the United States chose to pursue an approach to targeting that was aligned with its partners’ vision.

In a further speech this year, Brennan developed this point. He said that even though the United States believed in general it had a legal right under the laws of war to shoot to kill anyone who was part of al-Qaeda, the Taliban or associated forces, in practice it followed a more restrictive approach. “We do not engage in lethal action in order to eliminate every single member of al-Qaeda in the world,” Brennan said. “Rather, we conduct targeted strikes because they are necessary to mitigate an actual ongoing threat – to stop plots, prevent future attacks, and save American lives.” In other words, the Obama administration presents itself as following a policy of voluntary restraint – deliberately confining its use of targeted killing to those cases where officials believe it is necessary to prevent an imminent attack, in part out of respect for its allies’ sensibilities and to make cooperation easier.

There are two reasons why this concession, on its own, is unlikely to – and ought not to – satisfy European concerns. It is true that many European states would accept that the use of lethal force is permissible when it is the only way to prevent the imminent loss of innocent life. Indeed the European Court of Human Rights endorsed such a standard several years ago in an influential ruling on the shooting by British special forces of three IRA members in Gibraltar. But if the United States is indeed following the principle of imminent threat in making targeting decisions outside the “hot battlefield” of Afghanistan and the Pakistani border region, it seems to interpret the concept of imminence in a rather more permissive way than most Europeans would be comfortable with. The sheer number of strikes testifies to the accommodating nature of the administration’s analysis: the New America Foundation estimates that there have been 265 drone strikes in Pakistan and 28 in Yemen since Obama took office. Moreover, in both Pakistan and now Yemen, Obama has reportedly given permission for so-called “signature strikes” in which attacks are carried against targets on the basis of a pattern of behavior that is indicative of terrorist activity without identifying the individuals involved – a policy that seems particularly hard to justify under an imminence test outside battlefield conditions.

Over time, the United States and its European allies might be able move closer to a common understanding of the concept of imminence through a process of discussion. But in any case there is an independent reason why the Obama administration’s policy of claiming expansive legal powers, while limiting them in practice on a voluntary basis, is a dangerous one. Precisely because he has greater international credibility than President Bush, the claims that Obama makes are likely to be influential in setting global standards for the use of the use of this new and potentially widely available technology. The United States is currently the only country that uses armed drones for targeted killing outside the battlefield, but several other countries already have remotely controlled pilotless aircraft or are in the process of acquiring them. The United States is unlikely to remain alone in this practice for long. At the same time, there have been several other examples in recent years of countries engaging in military campaigns against non-state groups outside their borders – as with Israel in Lebanon and Ethiopia in Somalia. For this reason, there is a strong international interest in trying to establish clear and agreed legal rules (not merely a kind of pragmatic best practice) to govern the use of targeted killing of non-state fighters.

Resolving EU drone backlash is key issue to solve complete alliance collapse

Devin Streeter, Liberty University Strategic Intelligence Society, Director of Activities, Public Relations, and Recruitment, 4/19/2013, http://www.academia.edu/3523639/U.S.\_Drone\_Policy\_Tactical\_Success\_and\_Strategic\_Failure

In essence, the United States has sparked a miniature arms race and has intimidated nations with the threat of a new, superior technology. Governments that have begun pursuing their own UAV programs have shown a notable bitterness to the United States for its unchecked use of drones. 34 Nations such as China, Japan, Russia, and Brazil all disapprove of United States drone policies by over 30 percentage points. 35 To them, the United States seems heavy handed and brutish; holding back technology while indiscriminately using it against our enemies. The lack of consideration and cooperation is a negative influence on world leaders. At the same time, other nations feel that drones violate their airspace and are used without approval from the international community. 36 The majority of these nations fall within the boundaries of the European Union, and while their disapproval is not as notable as the first group, it often reaches the double digits rate. 37 Germany, Great Britain, Poland, and other European Union members do not understand the ‘fire from the hip’ mentality of drone strikes. 38 The European Council on Foreign Relations noted “it [United States] seems to interpret the concept of imminence in a rather more permissive way than most Europeans would be comfortable with.” 39 The European Union fully supports drones in combat support and reconnaissance roles, but has issues with the concept of targeted killings, which often result in collateral damage. 40 European leaders desire an international consensus on how drones should be operated, before more civilians become casualties. 41 The European Council on Foreign Relations further notes: The Obama administration has so far chosen to operate by analogy with inter-state war, but in an era marked by the individualization of conflict, this seems like an outdated approach. 42 Europe does not share the mentality of drone strikes with "acceptable" collateral damage and apolicy that is not accountable to the international community. As a result, relations with Europe have reached a critical point. 43 European nations, alienated by the Obama administration’s progressive dialogue but aggressive drone policy, 44 are ready to try and take the lead in international relations. 45 Germany in particular will be a key nation as it increases in prominence among European states. 46 Hans Kundnani, a well-known journalist and political pundit, notes, “Obama is extremely popular in Germany, but Berlin’s deeply-held views on the use of military force… have the potential to create a Europe-America split.” 47 Kundnani also states, “A ‘special relationship’ is developing between China and Germany.” 48 Because of anti-drone sentiment, long-time U.S. allies grow increasingly distant, to the point of forming new relationships with China. This is a direct threat to the United States’ place in international relations and a direct challenge to its hegemony. If the relations with Europe are to be fixed, a **change in drone protocol is needed**.

Causes backlash that crushes negotiation over EU-US cyber agreement - Snowden pushed the issue to the brink

Nagel 13

Hadley Nagel is a researcher at the American Foreign Policy Council in Washington, DC, US News and World Report, August 6, 2013, "NSA Leaks Cause Waves Across the Atlantic", http://www.usnews.com/opinion/blogs/world-report/2013/08/06/after-nsa-leaks-the-us-must-work-with-the-eu-on-cyber-issues

Germany provides a case in point. Cooperation on intelligence and surveillance issues between Berlin and Washington has been broad and robust. A brand new $124 million U.S. Army base with bug-proof offices and a high-tech control center is currently being built in Wiesenbaden, Germany to jointly house elements from the NSA and Germany's Federal Intelligence Service, the BND.

German authorities have also budgeted an additional $130 million over the next five years to beef up their own surveillance effortsas part of an effort called the Technikaufwuchsprogramm ("Technological Coming-of-Age Program"). So it was not particularly revelatory when Snowden disclosed that the U.S. is "in bed together with the Germans" on intelligence matters.

These leaks, however, have brought critical attention to a process that had gone on constructively behind the scenes for quite some time. Worse still, they have made intelligence cooperation with America a distinct campaign issue in Germany's forthcoming national elections, slated to take place on September 22nd.

As a result, a new debate is now casting a shadow over Germany's political process: What did Chancellor Angela Merkel know about the NSA's Prism program? And, if she was in fact unaware of it, does that not indicate that she is incompetent? To the latter point, Merkel was recently lampooned for a comment she made during a joint press conference in which she called the Internet "Neuland," or "uncharted territory." Her comments became an instant Internet meme. Merkel continues to leave important questions unanswered, and German citizens remain skeptical. As a result, September is shaping up to be a referendum of sorts regarding Germany's intelligence cooperation with the U.S.

The problem is broader still. In order to achieve any kind of global multilateral agreement on governance in cyberspace, America will need to engage and harness already-existing international efforts. These include the International Telecommunication Union, a specialized agency of the United Nations, and the Freedom Online Coalition, whose membership spans Europe, North and South America as well as Asia.

To do so, however, the U.S. needs Europe. Prior to the NSA Prism scandal, America's closest ally in cyber governance, despite some differences, was the European Union. The logic behind that cooperation still remains, but the recent revelations by Snowden have given EU members reason to pause. As Neelie Kroes of the Netherlands, who serves as a Vice-President of the EU and as the European Commissioner for Digital Agenda, recently put it, "if European... customers cannot trust the United States government or their assurances, then maybe they won't trust U.S... providers either. That is my guess, and if I am right then there are multi-billion euro consequences for American companies."

Rebuilding that trust requires actively working with Brussels to create a transparent and accountable framework for intelligence cooperation and data sharing. A relationship in good standing is also integral for protecting U.S. economic interests in the EU.

Washington has done little on that score – at least so far. While every U.S. president since Lyndon Johnson has journeyed to Brussels, the headquarters of the E.U., to engage with the European Union as a body, President Obama – now in his fifth year in office – still has not done so. Yet rapprochement with the entire EU is key to creating a sustainable long-term structure for global cyber governance.

Fortunately, an opportunity to begin to do so is around the corner. The Freedom Online Coalition will convene at the United Nation's 8th Internet Governance Forum in Bali, Indonesia from October 22 to 25th. The world will be watching to see if the United States and the EU arrive as a consolidated alliance, or as estranged bedfellows.

Key to prevent global internet censorship

Bendiek 9/9/13

Annegret Bendiek is a Fellow with the EuroFuture Project of The German Marshall Fund of the United States, based in Washington, DC and a Senior Associate and Deputy Head of the EU External Relations Division of the German Institute for International and Security Affairs, German Marshall Fund, September 9, 2013, "Why We Need a Transatlantic Deal on Cyber Security and Privacy", http://blog.gmfus.org/2013/09/09/why-we-need-a-transatlantic-deal-on-cyber-security-and-privacy/

WASHINGTON—The recent debate over the U.S. National Security Agency’s surveillance activities has highlighted the United States’ and European Union’s different approaches to security, liberty, and executive power. How much privacy should the Internet provide? What security measures should be taken against crime and terrorism? Where should boundaries be drawn between the sovereign rights of national governments and the global sphere? The manner in which these debates play out and which concerns receive priority will have decisive effects on the emerging new order of cyberspace.

Europe and the United States are currently implementing differing levels of cyber security and privacy vigilance. This creates inconsistencies for companies operating in both jurisdictions, and will complicate negotiations toward a proposed free trade and investment deal. Only a transatlantic deal on cyber security and privacy can help the United States and European Union position themselves as credible actors on Internet governance. There is precedent for that kind of cooperation. Along with the EU-U.S. Working Group on Cybersecurity and Cybercrime, the United States and EU have since 2010 held regular cyber-attack defensive exercises. And a new U.S.-EU working group has been created to address the access of non-American citizens’ personal data by U.S. authorities.

Security problems are without a doubt one of the most important issues facing the regulation of the Internet, but the apparent tussle between security and freedom is not a zero-sum game. For example, protection from industrial espionage renders important economic advantages — online sales are 4 percent of total EU sales — but it requires substantial faith in Internet security. Yet an excessive emphasis on the security aspect and neglect of the idea of the Internet as a global public good threatens fundamental freedoms and thereby the democratic values upon which the Internet is supposedly based.

The challenge for both the EU and the United States will be to ensure sufficient democratic oversight over cyber security. While some countries’ idea of Internet governance is clearly based on the expansion of state control, the current multi-stakeholder model is biased toward the interests of the developed states, specifically the United States, and their multinational corporations. In their own ways, both models fail to provide democratic legitimacy and accountability.

A first objective of further transatlantic cooperation should be to maintain the current architecture of the Internet, with its open standards and decentralized administration, while making it more democratic. The multi-stakeholder approach and multilateral negotiations would benefit from involving developing states as equal partners rather than expecting them to blithely accept the global digital divide.

Secondly, the private sector needs to be involved in any legally binding mechanism to ensure adherence to codes of conduct in cyberspace. A code of conduct can only benefit from the expertise of large global corporations, and their involvement will help ensure that they adhere to universal standards on security, informational self-determination, and data protection.

Finally, the EU and the United States should push for an update to the General Comments on Article 17 of the International Covenant on Civil and Political Rights of the UN Human Rights Commission, which serves as an international anchor for the right to privacy. The last such interpretation of international human rights law on the protection of privacy took place in 1988 and is in desperate need of being updated for the Internet age.

Only when the political, social, and economic dimensions of the Internet are considered and legislatures are more fully involved can a transatlantic Internet and cyber security market truly develop. Only in this way, can the transatlantic community ensure that security is not sacrificed for liberty and that the interests of the state are not pitted against privacy. Such a forward-looking transatlantic market will also hopefully function as an important bridge to other countries at the international level.

Censorship coming now and destroys the internet - ends global innovation and coordination efforts key to solve extinction

Genachowski and Bollinger 13

Julius Genachowski is chairman of the U.S. Federal Communications Commission, First Amendment scholar Lee C. Bollinger is president of Columbia University. Bollinger serves on the board of the Washington Post Company, Foreign Policy, April 16, 2013, "The Plot to Block Internet Freedom", http://www.foreignpolicy.com/articles/2013/04/16/plot\_block\_internet\_freedom?page=full

The Internet has created an extraordinary new democratic forum for people around the world to express their opinions. It is revolutionizing global access to information: Today, more than 1 billion people worldwide have access to the Internet, and at current growth rates, 5 billion people -- about 70 percent of the world's population -- will be connected in five years.

But this growth trajectory is not inevitable, and threats are mounting to the global spread of an open and truly "worldwide" web. The expansion of the open Internet must be allowed to continue: The mobile and social media revolutions are critical not only for democratic institutions' ability to solve the collective problems of a shrinking world, but also to a dynamic and innovative global economy that depends on financial transparency and the free flow of information.

The threats to the open Internet were on stark display at last December's World Conference on International Telecommunications in Dubai, where the United States fought attempts by a number of countries -- including Russia, China, and Saudi Arabia -- to give a U.N. organization, the International Telecommunication Union (ITU), new regulatory authority over the Internet. Ultimately, over the objection of the United States and many others, 89 countries voted to approve a treaty that could strengthen the power of governments to control online content and deter broadband deployment.

In Dubai, two deeply worrisome trends came to a head.

First, we see that the Arab Spring and similar events have awakened nondemocratic governments to the danger that the Internet poses to their regimes. In Dubai, they pushed for a treaty that would give the ITU's imprimatur to governments' blocking or favoring of online content under the guise of preventing spam and increasing network security. Authoritarian countries' real goal is to legitimize content regulation, opening the door for governments to block any content they do not like, such as political speech.

Second, the basic commercial model underlying the open Internet is also under threat. In particular, some proposals, like the one made last year by major European network operators, would change the ground rules for payments for transferring Internet content. One species of these proposals is called "sender pays" or "sending party pays." Since the beginning of the Internet, content creators -- individuals, news outlets, search engines, social media sites -- have been able to make their content available to Internet users without paying a fee to Internet service providers. A sender-pays rule would change that, empowering governments to require Internet content creators to pay a fee to connect with an end user in that country.

Sender pays may look merely like a commercial issue, a different way to divide the pie. And proponents of sender pays and similar changes claim they would benefit Internet deployment and Internet users. But the opposite is true: If a country imposed a payment requirement, content creators would be less likely to serve that country. The loss of content would make the Internet less attractive and would lessen demand for the deployment of Internet infrastructure in that country.

Repeat the process in a few more countries, and the growth of global connectivity -- as well as its attendant benefits for democracy -- would slow dramatically. So too would the benefits accruing to the global economy. Without continuing improvements in transparency and information sharing, the innovation that springs from new commercial ideas and creative breakthroughs is sure to be severely inhibited.

To their credit, American Internet service providers have joined with the broader U.S. technology industry, civil society, and others in opposing these changes. Together, we were able to win the battle in Dubai over sender pays, but we have not yet won the war. Issues affecting global Internet openness, broadband deployment, and free speech will return in upcoming international forums, including an important meeting in Geneva in May, the World Telecommunication/ICT Policy Forum.

The massive investment in wired and wireless broadband infrastructure in the United States demonstrates that preserving an open Internet is completely compatible with broadband deployment. According to a recent UBS report, annual wireless capital investment in the United States increased 40 percent from 2009 to 2012, while investment in the rest of the world has barely inched upward. And according to the Information Technology and Innovation Foundation, more fiber-optic cable was laid in the United States in 2011 and 2012 than in any year since 2000, and 15 percent more than in Europe.

All Internet users lose something when some countries are cut off from the World Wide Web. Each person who is unable to connect to the Internet diminishes our own access to information. We become less able to understand the world and formulate policies to respond to our shrinking planet. Conversely, we gain a richer understanding of global events as more people connect around the world, and those societies nurturing nascent democracy movements become more familiar with America's traditions of free speech and pluralism.

That's why we believe that the Internet should remain free of gatekeepers and that no entity -- public or private -- should be able to pick and choose the information web users can receive. That is a principle the United States adopted in the Federal Communications Commission's 2010 Open Internet Order. And it's why we are deeply concerned about arguments by some in the United States that broadband providers should be able to block, edit, or favor Internet traffic that travels over their networks, or adopt economic models similar to international sender pays.

We must preserve the Internet as the most open and robust platform for the free exchange of information ever devised. Keeping the Internet open is perhaps the most important free speech issue of our time.

Solves multiple existential risks

Eagleman 10 (David Eagleman is a neuroscientist at Baylor College of Medicine, where he directs the Laboratory for Perception and Action and the Initiative on Neuroscience and Law and author of Sum (Canongate). Nov. 9, 2010, “ Six ways the internet will save civilization,”
 <http://www.wired.co.uk/magazine/archive/2010/12/start/apocalypse-no>)

Many **great civilisations have fallen**, leaving nothing but cracked ruins and scattered genetics. Usually this results **from: natural disasters, resource depletion, economic meltdown, disease, poor information flow and corruption**. But we’re luckier than our predecessors because **we command a technology that no one else possessed: a rapid communication network that finds its highest expression in the interne**t. I propose that there are six ways in which **the net has vastly reduced the threat of societal collapse. Epidemics can be deflected by telepresence** One of our more dire prospects for collapse is an infectious-disease epidemic**. Viral and bacterial epidemics precipitated the fall of t**he Golden Age of **Athens,** the Roman Empire and most of the empires of the Native Americans. **The internet can be our key to survival because the ability to work telepresently can inhibit microbial transmission by reducing human-to-human contact**. In the face of an otherwise devastating epidemic, businesses can keep supply chains running with the maximum number of employees working from home. This can reduce host density below the tipping point required for an epidemic. **If we are well prepared when an epidemic arrives, we can fluidly shift into a self-quarantined society** in which microbes fail due to host scarcity. Whatever the social ills of isolation, they are worse for the microbes than for us. **The internet will predict natural disasters** **We are witnessing the downfall of slow central control in the media**: news stories are increasingly becoming user-generated nets of up-to-the-minute information. **During the recent California wildfires,** locals went to the TV stations to learn whether their neighbourhoods were in danger. But the news stations appeared most concerned with the fate of celebrity mansions, so Californians changed their tack: they uploaded geotagged mobile-phone pictures, updated Facebook statuses and tweeted. The balance tipped: **the internet carried news about the fire more quickly and accurately than any news station could.** In this grass-roots, decentralised scheme, there were embedded reporters on every block, and the news shockwave kept ahead of the fire. This head start could provide the extra hours that save us. If the Pompeiians had had the internet in 79AD, they could have easily marched 10km to safety, well ahead of the pyroclastic flow from Mount Vesuvius. **If the Indian Ocean had the Pacific’s networked tsunami-warning system, South-East Asia would look quite different today**. **Discoveries are retained and shared** Historically, **critical information has required constant rediscovery**. Collections of learning -- from the library at Alexandria to the entire Minoan civilisation -- have fallen to the bonfires of invaders or the wrecking ball of natural disaster. Knowledge is hard won but easily lost. And information that survives often does not spread. **Consider smallpox inoculation**: this was under way in India, China and Africa centuries before it made its way to Europe**. By the time the idea reached North America, native civilisations who needed it had already collapsed**. **The net solved the problem. New discoveries catch on immediately;** information spreads widely. In this way, societies can optimally ratchet up, using the latest bricks of knowledge in their fortification against risk. **Tyranny is mitigated** **Censorship of ideas** was a familiar spectre in the last century, with state-approved news outlets ruling the press, airwaves and copying machines **in the USSR**, Romania, Cuba, China, Iraq **and elsewhere**. In many cases, such as Lysenko’s agricultural despotism in the USSR, it **directly contributed to the collapse of the nation**. Historically**, a more successful strategy has been to confront free speech with free speech -- and the internet allows this in a natural way.** It democratises the flow of information by offering access to the newspapers of the world, the photographers of every nation, the bloggers of every political stripe. Some posts are full of doctoring and dishonesty whereas others strive for independence and impartiality -- but all are available to us to sift through. Given the attempts by some governments to build firewalls, it’s clear that this benefit of the net requires constant vigilance. **Human capital is vastly increased** **Crowdsourcing brings people together to solve problems.** Yet far fewer than one per cent of the world’s population is involved. We need expand human capital. Most of the world not have access to the education afforded a small minority. For every Albert Einstein, Yo-Yo Ma or Barack Obama who has educational opportunities, uncountable others do not. This squandering of talent translates into reduced economic output and a smaller pool of problem solvers. **The net opens the gates education to anyone with a computer**. A motivated teen anywhere on the planet can walk through the world’s knowledge -- from the webs of Wikipedia to the curriculum of MIT’s OpenCourseWare**. The new human capital will serve us well when we confront existential threats we’ve never imagined before. Energy expenditure is reduced** Societal collapse can often be understood in terms of an energy budget: **when energy spend outweighs energy return, collapse ensues**. This has taken the form of deforestation or soil erosion; **currently, the worry involves fossil-fuel depletion. The internet addresses the energy problem with a natural ease**. Consider the massive energy savings inherent in the shift from paper to electrons -- as seen in the transition from the post to email. **Ecommerce reduces the need to drive long distances to purchase products**. **Delivery trucks are more eco-friendly** than individuals driving around, not least because of tight packaging and optimisation algorithms for driving routes. Of course, there are energy costs to the banks of computers that underpin the internet -- but these costs are less than the wood, coal and oil that would be expended for the same quantity of information flow. **The tangle of events that triggers societal collapse can be complex**, and there are several threats the net does not address. **But vast, networked communication can be an antidote to several of the most deadly diseases threatening civilisation.** The next time your coworker laments internet addiction, the banality of tweeting or the decline of face-to-face conversation, you may want to suggest that the net may just be the technology that saves us.

### norms

Unrestrained drone use outside zones of active hostilities collapses legal norms governing targeted killing – only the plan solves

Rosa Brooks, Professor of Law, Georgetown University Law Center, Bernard L. Schwartz Senior Fellow, New America Foundation, 4/23/13, The Constitutional and Counterterrorism Implications of Targeted Killing, http://www.judiciary.senate.gov/pdf/04-23-13BrooksTestimony.pdf

Mr. Chairman, I would like to turn now to the legal framework applicable to US drone strikes. Both the United States and the international community have long had rules governing armed conflicts and the use of force in national self-defense. These rules apply whether the lethal force at issue involves knives, handguns, grenades or weaponized drones. When drone technologies are used in traditional armed conflicts—on “hot battlefields” such as those in Afghanistan, Iraq or Libya, for instance – they pose no new legal issues. As Administration officials have stated, their use is subject to the same requirements as the use of other lawful means and methods of warfare.28

But if drones used in traditional armed conflicts or traditional self-defense situations present no “new” legal issues, some of the activities and policies enabled and facilitated by drone technologies pose significant challenges to existing legal frameworks.

As I have discussed above, the availability of perceived low cost of drone technologies makes it far easier for the US to “expand the battlefield,” striking targets in places where it would be too dangerous or too politically controversial to send troops. Specifically, drone technologies enable the United States to strike targets deep inside foreign states, and do so quickly, efficiently and deniably. As a result, drones have become the tool of choice for so-called “targeted killing” – the deliberate targeting of an individual or group of individuals, whether known by name or targeted based on patterns of activity, inside the borders of a foreign country. **It is when drones are used in targeted killings outside of traditional or “hot” battlefields that their use challenges existing legal frameworks**.

Law is almost always out of date: we make legal rules based on existing conditions and technologies, perhaps with a small nod in the direction of predicted future changes. As societies and technologies change, law increasingly becomes an exercise in jamming square pegs into round holes. Eventually, that process begins to do damage to existing law: it gets stretched out of shape, or broken. Right now, I would argue, US drone policy is on the verge of doing significant damage to the rule of law.

A. The Rule of Law

At root, the idea of “rule of law” is fairly simple, and well understood by Americans familiar with the foundational documents that established our nation, such as the Declaration of Independence, the Constitution and the Bill of Rights. The rule of law requires that governments follow transparent, clearly defined and universally applicable laws and procedures. The goal of the rule of law is to ensure predictability and stability, and to prevent the arbitrary exercise of power. In a society committed to the rule of law, the government cannot fine you, lock you up, or kill you on a whim -- it can restrict your liberty or take your property or life only in accordance with pre-established processes and rules that reflect basic notions of justice, humanity and fairness.

Precisely what constitutes a fair process is debatable, but most would agree that at a minimum, fairness requires that individuals have reasonable notice of what constitutes the applicable law, reasonable notice that they are suspected of violating the law, a reasonable opportunity to rebut any allegations against them, and a reasonable opportunity to have the outcome of any procedures or actions against them reviewed by some objective person or body. These core values are enshrined both in the US Constitution and in international human rights law instruments such as the International Covenant on Civil and Political Rights, to which the United States is a party.

In ordinary circumstances, this bundle of universally acknowledged rights (together with international law principles of sovereignty) means it is clearly unlawful for one state to target and kill an individual inside the borders of another state. Recall, for instance, the 1976 killing of Chilean dissident Orlando Letelier in Washington DC. When Chilean government intelligence operatives planted a car bomb in the car used by Letelier, killing him and a US citizen accompanying him, the United States government called this an act of murder—an unlawful political assassination.

B. Targeted Killing and the Law of Armed Conflict

Of course, sometimes the “ordinary” legal rules do not apply. In war, the willful killing of human beings is permitted, whether the means of killing is a gun, a bomb, or a long-distance drone strike. The law of armed conflict permits a wide range of behaviors that would be unlawful in the absence of an armed conflict. Generally speaking, the intentional destruction of private property and severe restrictions on individual liberties are impermissible in peacetime, but acceptable in wartime, for instance. Even actions that a combatant knows will cause civilian deaths are lawful when consistent with the principles of necessity, humanity, proportionality,29 and distinction.30

It is worth briefly explaining these principles. The principle of necessity requires parties to a conflict to limit their actions to those that are indispensible for securing the complete submission of the enemy as soon as possible (and that are otherwise permitted by international law). The principle of humanity forbids parties to a conflict to inflict gratuitous violence or employ methods calculated to cause unnecessary suffering. The principle of proportionality requires parties to ensure that the anticipated loss of life or property incidental to an attack is not excessive in relation to the concrete and direct military advantage expected to be gained.

Finally, the principle of discrimination or distinction requires that parties to a conflict direct their actions only against combatants and military objectives, and take appropriate steps to distinguish between combatants and non-combatants.31

This is a radical oversimplification of a very complex body of law.32 But as with the rule of law, the basic idea is pretty simple. When there is no war -- when ordinary, peacetime law applies -- agents of the state aren't supposed to lock people up, take their property or kill them, unless they have jumped through a whole lot of legal hoops first. When there is an armed conflict, however, everything changes. War is not a legal free-for-all33 -- torture, rape are always crimes under the law of war, as is killing that is willful, wanton and not justified by military necessity34 -- but there are far fewer constraints on state behavior.

Technically, the law of war is referred to using the Latin term “lex specialis” – special law. It is applicable in—and only in -- special circumstances (in this case, armed conflict), and in those special circumstances, it supersedes “ordinary law,” or “lex generalis,” the “general law” that prevails in peacetime. We have one set of laws for “normal” situations, and another, more flexible set of laws for “extraordinary” situations, such as armed conflicts.

None of this poses any inherent problem for the rule of law. Having one body of rules that tightly restricts the use of force and another body of rules that is far more permissive does not fundamentally undermine the rule of law, as long as we have a reasonable degree of consensus on what circumstances trigger the “special” law, and as long as the “special law” doesn’t end up undermining the general law.

To put it a little differently, war, with its very different rules, does not challenge ordinary law as long as war is the exception, not the norm -- as long as we can all agree on what constitutes a war -- as long as we can tell when the war begins and ends -- and as long as we all know how to tell the difference between a combatant and a civilian, and between places where there's war and places where there's no war.

Let me return now to the question of drones and targeted killings. When all these distinctions I just mentioned are clear, the use of drones in targeted killings does not necessarily present any great or novel problem. In Libya, for instance, a state of armed conflict clearly existed inside the borders of Libya between Libyan government forces and NATO states. In that context, the use of drones to strike Libyan military targets is no more controversial than the use of manned aircraft.

That is because our core rule of law concerns have mostly been satisfied: we know there is an armed conflict, in part because all parties to it agree that there is an armed conflict, in part because observers (such as international journalists) can easily verify the presence of uniformed military personnel engaged in using force, and in part because the violence is, from an objective perspective, widespread and sustained: it is not a mere skirmish or riot or criminal law enforcement situation that got out of control. We know who the “enemy” is: Libyan government forces. We know where the conflict is and is not: the conflict was in Libya, but not in neighboring Algeria or Egypt. We know when the conflict began, we know who authorized the use of force (the UN Security Council) and, just as crucially, we know whom to hold accountable in the event of error or abuse (the various governments involved).35

Once you take targeted killings outside hot battlefields, it’s a different story. The Obama Administration is currently using drones to strike terror suspects in Pakistan, Somalia, Yemen, and –perhaps—Mali and the Philippines as well. Defenders of the administration's increasing reliance on drone strikes in such places assert that the US is in an armed conflict with “al Qaeda and its associates,” and on that basis, they assert that the law of war is applicable -- in any place and at any time -- with regard to any person the administration deems a combatant.

The trouble is, no one outside a very small group within the US executive branch has any ability to evaluate who is and who isn’t a combatant. The war against al Qaeda and its associates is not like World War II, or Libya, or even Afghanistan: it is an open-ended conflict with an inchoate, undefined adversary (who exactly are al Qaeda’s “associates”?). What is more, targeting decisions in this nebulous “war” are based largely on classified intelligence reporting. **As a result, Administration assertions** about who is a combatant and what constitutes a threat **are entirely non-falsifiable, because they're based wholly on undisclosed evidence**. Add to this still another problem: most of these strikes are considered covert action, so although the US sometimes takes public credit for the deaths of alleged terrorist leaders, most of the time, the US will not even officially acknowledge targeted killings.

This leaves all the key rule-of-law questions related to the ongoing war against al Qaeda and its "associates" unanswered.36 Based on what criteria might someone be considered a combatant or directly participating in hostilities? What constitutes “hostilities” in the context of an armed conflict against a non-state actor, and what does it mean to participate in them? And just where is the war? Does the war (and thus the law of war) somehow "travel" with combatants? Does the US have a “right” to target enemy combatants anywhere on earth, or does it depend on the consent of the state at issue? Who in the United States government is authorized to make such determinations, and what is the precise chain of command for such decisions?

I think the rule of law problem here is obvious: when “armed conflict” becomes a term flexible enough to be applied both to World War II and to the relations between the United States and “associates” of al Qaeda such as Somalia’s al Shabaab, the concept of armed conflict is not very useful anymore. And **when we lack clarity and consensus on how to recognize “armed conflict,” we no longer have a clear or principled basis for deciding how to categorize US targeted killings**. Are they, as the US government argues, legal under the laws of war? Or are they, as some human rights groups have argued, unlawful murder?

C. Targeted Killing and the International Law of Self-Defense

When faced with criticisms of the law of war framework as a justification for targeted killing, Obama Administration representatives often shift tack, arguing that international law rules on national self-defense provide an alternative or additional legal justification for US targeted killings. Here, the argument is that if a person located in a foreign state poses an "imminent threat of violent attack" against the United States, the US can lawfully use force in self-defense, provided that the defensive force used is otherwise consistent with law of war principles.

Like law of war-based arguments, this general principle is superficially uncontroversial: if someone overseas is about to launch a nuclear weapon at New York City, no one can doubt that the United States has a perfect right (and the president has a constitutional duty) to use force if needed to prevent that attack, regardless of the attacker's nationality.

But once again, the devil is in the details. To start with, what constitutes an "imminent" threat? Traditionally, both international law and domestic criminal law understand that term narrowly: 37 to be "imminent," a threat cannot be distant or speculative.38 But much like the Bush Administration before it, the Obama Administration has put forward an interpretation of the word “imminent” that bears little relation to traditional legal concepts.

According to a leaked 2011 Justice Department white paper39—the most detailed legal justification that has yet become public-- the requirement of imminence "does not require the United States to have clear evidence that a specific attack on U.S. persons and interests will take place in the immediate future." This seems, in itself, like a substantial departure from accepted international law definitions of imminence.

But the White Paper goes even further, stating that "certain members of al Qaeda are continually plotting attacks...and would engage in such attacks regularly [if] they were able to do so, [and] the US government may not be aware of all... plots as they are developing and thus cannot be confident that none is about to occur." For this reason, it concludes, anyone deemed to be an operational leader of al Qaeda or its "associated forces" presents, by definition, an imminent threat even in the absence of any evidence whatsoever relating to immediate or future attack plans. In effect, the concept of "imminent threat" (part of the international law relating to self-defense) becomes conflated with identity or status (a familiar part of the law of armed conflict).

That concept of imminence has been called Orwellian, and although that is an overused epithet, in this context it seems fairly appropriate. According to the Obama Administration, “imminent” no longer means “immediate,” and in fact the very absence of clear evidence indicating specific present or future attack plans becomes, paradoxically, the basis for assuming that attack may perpetually be “imminent.”

The 2011 Justice Department White Paper notes that the use of force in self-defense must comply with general law of war principles of necessity, proportionality, humanity, and distinction. The White Paper offers no guidance on the specific criteria for determining when an individual is a combatant (or a civilian participating directly in hostilities), however. It also offers no guidance on how to determine if a use of force is necessary or proportionate.

From a traditional international law perspective, this necessity and proportionality inquiry relates both to imminence and to the gravity of the threat itself, but so far there has been no public Administration statement as to how the administration interprets these requirements. Is any threat of "violent attack" sufficient to justify killing someone in a foreign country, including a U.S. citizen? Is every potential suicide bomber targetable, or does it depend on the gravity of the threat? Are we justified in drone strikes against targets who might, if they get a chance at some unspecified future point, place an IED that might, if successful, kill one person? Ten people? Twenty? 2,000? How grave a threat must there be to justify the use of lethal force against an American citizen abroad -- or against non-citizens, for that matter?

As I have noted, it is impossible for outsiders to fully evaluate US drone strikes, since so much vital information remains classified. In most cases, we know little about the identities; activities or future plans of those targeted. Nevertheless, given the increased frequency of US targeted killings in recent years, it seems reasonable to wonder whether the Administration conducts a rigorous necessity or proportionality analysis in all cases.

So far, the leaked 2011 Justice Department White Paper represents the most detailed legal analysis of targeted killings available to the public. It is worth noting, incidentally, that this White Paper addresses only the question of whether and when it is lawful for the US government to target US citizens abroad. We do not know what legal standards the Administration believes apply to the targeting of non-citizens. It seems reasonable to assume, however, that the standards applicable to non-citizens are less exacting than those the Administration views as applicable to citizens.

Defenders of administration targeted killing policy acknowledge that the criteria for determining how to answer these many questions have not been made public, but insist that this should not be cause for concern. The Administration has reportedly developed a detailed “playbook” outlining the targeting criteria and procedures,40, and insiders insist that executive branch officials go through an elaborate process in which they carefully consider every possible issue before determining that a drone strike is lawful.41

No doubt they do, but this is somewhat cold comfort. Formal processes tend to further normalize once-exceptional activities -- and "trust us" is a rather shaky foundation for the rule of law. Indeed, the whole point of the rule of law is that individual lives and freedom should not depend solely on the good faith and benevolence of government officials.

As with law of war arguments, stating that US targeted killings are clearly legal under traditional self-defense principles requires some significant cognitive dissonance. Law exists to restrain untrammeled power. It is no doubt possible to make a plausible legal argument justifying each and every U.S. drone strike -- but this merely suggests that we are working with a legal framework that has begun to outlive its usefulness.

The real question isn't whether U.S. drone strikes are "legal." The real question is this: Do we really want to live in a world in which the U.S. government's justification for killing is so malleable?

5. Setting Troubling International Precedents

**Here is an a**dditional **reason to worry** about the U.S. overreliance on drone strikes: Other states will follow America's example, and the results are not likely to be pretty. Consider once again the Letelier murder, which was an international scandal in 1976: If the Letelier assassination took place today, the Chilean authorities would presumably insist on their national right to engage in “targeted killings” of individuals deemed to pose imminent threats to Chilean national security -- and they would justify such killings using precisely the same legal theories the US currently uses to justify targeted killings in Yemen or Somalia. We should assume that governments around the world—including those with less than stellar human rights records, such as Russia and China—are taking notice.

Right now, the United States has a decided technological advantage when it comes to armed drones, but that will not last long. **We should use this window to advance a robust legal** and normative **framework that will help protect against abuses by those states whose leaders can rarely be trusted**. Unfortunately, we are doing the exact opposite: Instead of articulating norms about transparency and accountability, the United States is effectively handing China, Russia, and every other repressive state a playbook for how to foment instability and –literally -- get away with murder.

Take the issue of sovereignty. Sovereignty has long been a core concept of the Westphalian international legal order.42 In the international arena, all sovereign states are formally considered equal and possessed of the right to control their own internal affairs free of interference from other states. That's what we call the principle of non-intervention -- and it means, among other things, that it is generally prohibited for one state to use force inside the borders of another sovereign state. There are some well-established exceptions, but they are few in number. A state can lawfully use force inside another sovereign state with that state's invitation or consent, or when force is authorized by the U.N. Security Council, pursuant to the U.N. Charter,43 or in self-defense "in the event of an armed attack."

The 2011 Justice Department White Paper asserts that targeted killings carried out by the United States don't violate another state's sovereignty as long as that state either consents or is "unwilling or unable to suppress the threat posed by the individual being targeted." That sounds superficially plausible, but since the United States views itself as the sole arbiter of whether a state is "unwilling or unable" to suppress that threat, the logic is in fact circular.

It goes like this: The United States -- using its own malleable definition of "imminent" -- decides that Person X, residing in sovereign State Y, poses a threat to the United States and requires killing. Once the United States decides that Person X can be targeted, the principle of sovereignty presents no barriers, because either 1) State Y will consent to the U.S. use of force inside its borders, in which case the use of force presents no sovereignty problems or 2) State Y will not consent to the U.S. use of force inside its borders, in which case, by definition, the United States will deem State Y to be "unwilling or unable to suppress the threat" posed by Person X and the use of force again presents no problem.

This is a legal theory that more or less eviscerates traditional notions of sovereignty, and has the potential to significantly destabilize the already shaky collective security regime created by the U.N. Charter.44 If the US is the sole arbiter of whether and when it can use force inside the borders of another state, any other state strong enough to get away with it is likely to claim similar prerogatives. And, of course, if the US executive branch is the sole arbiter of what constitutes an imminent threat and who constitutes a targetable enemy combatant in an ill- defined war, why shouldn’t other states make identical arguments—and use them to justify the killing of dissidents, rivals, or unwanted minorities?

That solves global war – US precedent is key

Kristen Roberts 13, news editor for the National Journal, master in security studies from Georgetown, “When the Whole World Has Drones”, March 22, <http://www.nationaljournal.com/magazine/when-the-whole-world-has-drones-20130321>

The proliferation of drone technology has moved well beyond the control of the United States government and its closest allies. The aircraft are too easy to obtain, with barriers to entry on the production side crumbling too quickly to place limits on the spread of a technology that promises to transform warfare on a global scale. Already, more than 75 countries have remote piloted aircraft. More than 50 nations are building a total of nearly a thousand types. At its last display at a trade show in Beijing, China showed off 25 different unmanned aerial vehicles. Not toys or models, but real flying machines.

It’s a classic and common phase in the life cycle of a military innovation: An advanced country and its weapons developers create a tool, and then others learn how to make their own. But what makes this case rare, and dangerous, is the powerful combination of efficiency and lethality spreading in an environment lacking internationally accepted guidelines on legitimate use. This technology is snowballing through a global arena where the main precedent for its application is the one set by the United States; it’s a precedent Washington does not want anyone following.

America, the world’s leading democracy and a country built on a legal and moral framework unlike any other, has adopted a war-making process that too often bypasses its traditional, regimented, and rigorously overseen military in favor of a secret program never publicly discussed, based on legal advice never properly vetted. The Obama administration has used its executive power to refuse or outright ignore requests by congressional overseers, and it has resisted monitoring by federal courts.

To implement this covert program, the administration has adopted a tool that lowers the threshold for lethal force by reducing the cost and risk of combat. This still-expanding counterterrorism use of drones to kill people, including its own citizens, outside of traditionally defined battlefields and established protocols for warfare, has given friends and foes a green light to employ these aircraft in extraterritorial operations that could not only affect relations between the nation-states involved but also destabilize entire regions and potentially upset geopolitical order.

Hyperbole? Consider this: Iran, with the approval of Damascus, carries out a lethal strike on anti-Syrian forces inside Syria; Russia picks off militants tampering with oil and gas lines in Ukraine or Georgia; Turkey arms a U.S.-provided Predator to kill Kurdish militants in northern Iraq who it believes are planning attacks along the border. Label the targets as terrorists, and in each case, Tehran, Moscow, and Ankara may point toward Washington and say, we learned it by watching you. In Pakistan, Yemen, and Afghanistan.

This is the unintended consequence of American drone warfare. For all of the attention paid to the drone program in recent weeks—about Americans on the target list (there are none at this writing) and the executive branch’s legal authority to kill by drone outside war zones (thin, by officials’ own private admission)—what goes undiscussed is Washington’s deliberate failure to establish clear and demonstrable rules for itself that would at minimum create a globally relevant standard for delineating between legitimate and rogue uses of one of the most awesome military robotics capabilities of this generation.

THE WRONG QUESTION

The United States is the indisputable leader in drone technology and long-range strike. Remote-piloted aircraft have given Washington an extraordinary ability to wage war with far greater precision, improved effect, and fewer unintended casualties than conventional warfare. The drones allow U.S. forces to establish ever greater control over combat areas, and the Pentagon sees the technology as an efficient and judicious force of the future. And it should, given the billions of dollars that have gone into establishing and maintaining such a capability.

That level of superiority leads some national security officials to downplay concerns about other nations’ unmanned systems and to too narrowly define potential threats to the homeland. As proof, they argue that American dominance in drone warfare is due only in part to the aircraft itself, which offers the ability to travel great distances and loiter for long periods, not to mention carry and launch Hellfire missiles. The drone itself, they argue, is just a tool and, yes, one that is being copied aggressively by allies and adversaries alike. The real edge, they say, is in the unparalleled intelligence-collection and data-analysis underpinning the aircraft’s mission.

“There is what I think is just an unconstrained focus on a tool as opposed to the subject of the issue, the tool of remotely piloted aircraft that in fact provide for greater degrees of surety before you employ force than anything else we use,” said retired Lt. Gen. David Deptula, the Air Force’s first deputy chief of staff for intelligence, surveillance, and reconnaissance. “I think people don’t realize that for the medium altitude aircraft—the MQ-1 [Predator] and MQ-9 [Reaper] that are generally written about in the press—there are over 200 people involved in just one orbit of those aircraft.… The majority of those people are analysts who are interpreting the information that’s coming off the sensors on the aircraft.”

The analysts are part of the global architecture that makes precision strikes, and targeted killing, possible. At the front end, obviously, intelligence—military, CIA, and local—inform target decisions. But in as near-real time as technologically possible, intel analysts in Nevada, Texas, Virginia, and other locations watch the data flood in from the aircraft and make calls on what’s happening on target. They monitor the footage, listen to audio, and analyze signals, giving decision-makers time to adjust an operation if the risks (often counted in potential civilian deaths) outweigh the reward (judged by the value of the threat eliminated).

“Is that a shovel or a rifle? Is that a Taliban member or is this a farmer? The way that warfare has advanced is that we are much more exquisite in our ability to discern,” Maj. Gen. Robert Otto, commander of the Air Force Intelligence, Surveillance, and Reconnaissance Agency, told National Journal at Nellis Air Force Base in Nevada. “We’re not overhead for 15 minutes with a fighter that’s about to run out of gas, and we have to make a decision. We can orbit long enough to be pretty sure about our target.”

Other countries, groups, and even individuals can and do fly drones. But no state or group has nearly the sophisticated network of intelligence and data analysis that gives the United States its strategic advantage. Although it would be foolish to dismiss the notion that potential U.S. adversaries aspire to attain that type of war-from-afar, pinpoint-strike capability, they have neither the income nor the perceived need to do so.

That’s true, at least today. It’s also irrelevant. Others who employ drones are likely to carry a different agenda, one more concerned with employing a relatively inexpensive and ruthlessly efficient tool to dispatch an enemy close at hand.

“It would be very difficult for them to create the global-strike architecture we have, to have a control cell in Nevada flying a plane over Afghanistan. The reality is that most nations don’t want or need that,” said Peter Singer, director of the Brookings Institution’s Center for 21st Century Security and Intelligence and one of the foremost experts in advanced military technology. “Turkey’s not looking to conduct strikes into the Philippines.... But Turkey is looking to be able to carry out long-duration surveillance and potentially strike inside and right on its border.”

And that’s a NATO ally seeking the capability to conduct missions that would run afoul of U.S. interests in Iraq and the broader Middle East. Already, Beijing says it considered a strike in Myanmar to kill a drug lord wanted in the deaths of Chinese sailors. What happens if China arms one of its remote-piloted planes and strikes Philippine or Indian trawlers in the South China Sea? Or if India uses the aircraft to strike Lashkar-e-Taiba militants near Kashmir?

“We don’t like other states using lethal force outside their borders. It’s destabilizing. It can lead to a sort of wider escalation of violence between two states,” said Micah Zenko, a security policy and drone expert at the Council on Foreign Relations. “So the proliferation of drones is not just about the protection of the United States. It’s primarily about the likelihood that other states will increasingly use lethal force outside of their borders.”

LOWERING THE BAR

Governments have covertly killed for ages, whether they maintained an official hit list or not. Before the Obama administration’s “disposition matrix,” Israel was among the best-known examples of a state that engaged, and continues to engage, in strikes to eliminate people identified by its intelligence as plotting attacks against it. But Israel certainly is not alone. Turkey has killed Kurds in Northern Iraq. Some American security experts point to Russia as well, although Moscow disputes this.

In the 1960s, the U.S. government was involved to differing levels in plots to assassinate leaders in Congo and the Dominican Republic, and, famously, Fidel Castro in Cuba. The Church Committee’s investigation and subsequent 1975 report on those and other suspected plots led to the standing U.S. ban on assassination. So, from 1976 until the start of President George W. Bush’s “war on terror,” the United States did not conduct targeted killings, because it was considered anathema to American foreign policy. (In fact, until as late as 2001, Washington’s stated policy was to oppose Israel’s targeted killings.)

When America adopted targeted killing again—first under the Bush administration after the September 11 attacks and then expanded by President Obama—the tools of the trade had changed. No longer was the CIA sending poison, pistols, and toxic cigars to assets overseas to kill enemy leaders. Now it could target people throughout al-Qaida’s hierarchy with accuracy, deliver lethal ordnance literally around the world, and watch the mission’s completion in real time.

The United States is smartly using technology to improve combat efficacy, and to make war-fighting more efficient, both in money and manpower. It has been able to conduct more than 400 lethal strikes, killing more than 3,500 people, in Afghanistan, Pakistan, Yemen, Somalia, and North Africa using drones; reducing risk to U.S. personnel; and giving the Pentagon flexibility to use special-forces units elsewhere. And, no matter what human-rights groups say, it’s clear that drone use has reduced the number of civilians killed in combat relative to earlier conflicts. Washington would be foolish not to exploit unmanned aircraft in its long fight against terrorism. In fact, defense hawks and spendthrifts alike would criticize it if it did not.

“If you believe that these folks are legitimate terrorists who are committing acts of aggressive, potential violent acts against the United States or our allies or our citizens overseas, should it matter how we choose to engage in the self-defense of the United States?” asked Rep. Mike Rogers, R-Mich., chairman of the House Intelligence Committee. “Do we have that debate when a special-forces team goes in? Do we have that debate if a tank round does it? Do we have the debate if an aircraft pilot drops a particular bomb?”

But defense analysts argue—and military officials concede—there is a qualitative difference between dropping a team of men into Yemen and green-lighting a Predator flight from Nevada. Drones lower the threshold for military action. That’s why, according to the Council on Foreign Relations, unmanned aircraft have conducted 95 percent of all U.S. targeted killings. Almost certainly, if drones were unavailable, the United States would not have pursued an equivalent number of manned strikes in Pakistan.

And what’s true for the United States will be true as well for other countries that own and arm remote piloted aircraft.

“The drones—the responsiveness, the persistence, and without putting your personnel at risk—is what makes it a different technology,” Zenko said. “When other states have this technology, if they follow U.S. practice, it will lower the threshold for their uses of lethal force outside their borders. So they will be more likely to conduct targeted killings than they have in the past.”

The Obama administration appears to be aware of and concerned about setting precedents through its targeted-strike program. When the development of a disposition matrix to catalog both targets and resources marshaled against the United States was first reported in 2012, officials spoke about it in part as an effort to create a standardized process that would live beyond the current administration, underscoring the long duration of the counterterrorism challenge.

Indeed, the president’s legal and security advisers have put considerable effort into establishing rules to govern the program. Most members of the House and Senate Intelligence committees say they are confident the defense and intelligence communities have set an adequate evidentiary bar for determining when a member of al-Qaida or an affiliated group may be added to the target list, for example, and say that the rigor of the process gives them comfort in the level of program oversight within the executive branch. “They’re not drawing names out of a hat here,” Rogers said. “It is very specific intel-gathering and other things that would lead somebody to be subject for an engagement by the United States government.”

BEHIND CLOSED DOORS

The argument against public debate is easy enough to understand: Operational secrecy is necessary, and total opacity is easier. “I don’t think there is enough transparency and justification so that we remove not the secrecy, but the mystery of these things,” said Dennis Blair, Obama’s former director of national intelligence. “The reason it’s not been undertaken by the administration is that they just make a cold-blooded calculation that it’s better to hunker down and take the criticism than it is to get into the public debate, which is going to be a hard one to win.”

But by keeping legal and policy positions secret, only partially sharing information even with congressional oversight committees, and declining to open a public discussion about drone use, the president and his team are asking the world to just trust that America is getting this right. While some will, many people, especially outside the United States, will see that approach as hypocritical, coming from a government that calls for transparency and the rule of law elsewhere.

“I know these people, and I know how much they really, really attend to the most important details of the job,” said Barry Pavel, a former defense and security official in the Bush and Obama administrations who is director of the Brent Scowcroft Center on International Security at the Atlantic Council. “If I didn’t have that personal knowledge and because there isn’t that much really in the press, then I would be giving you a different rendering, and much more uncertain rendering.”

That’s only part of the problem with the White House’s trust-us approach. The other resides in the vast distance between the criteria and authorization the administration says it uses in the combat drone program and the reality on the ground. For example, according to administration officials, before a person is added to the targeted strike list, specific criteria should be met. The target should be a 1) senior, 2) operational 3) leader of al-Qaida or an affiliated group who presents 4) an imminent threat of violent attack 5) against the United States.

But that’s not who is being targeted.

Setting aside the administration’s redefining of “imminence” beyond all recognition, the majority of the 3,500-plus people killed by U.S. drones worldwide were not leaders of al-Qaida or the Taliban; they were low- or mid-level foot soldiers. Most were not plotting attacks against the United States. In Yemen and North Africa, the Obama administration is deploying weaponized drones to take out targets who are more of a threat to local governments than to Washington, according to defense and regional security experts who closely track unrest in those areas. In some cases, Washington appears to be in the business of using its drone capabilities mostly to assist other countries, not to deter strikes against the United States (another precedent that might be eagerly seized upon in the future).

U.S. defense and intelligence officials reject any suggestion that the targets are not legitimate. One thing they do not contest, however, is that the administration’s reliance on the post-9/11 Authorization for Use of Military Force as legal cover for a drone-strike program that has extended well beyond al-Qaida in Afghanistan or Pakistan is dodgy. The threat that the United States is trying to deal with today has an ever more tenuous connection to Sept. 11. (None of the intelligence officials reached for this article would speak on the record.) But instead of asking Congress to consider extending its authorization, as some officials have mulled, the administration’s legal counsel has chosen instead to rely on Nixon administration adviser John Stevenson’s 1970 justification of the bombing of Cambodia during the Vietnam War, an action new Secretary of State John Kerry criticized during his confirmation hearing this year.

Human-rights groups might be loudest in their criticism of both the program and the opaque policy surrounding it, but even the few lawmakers who have access to the intelligence the administration shares have a hard time coping with the dearth of information. “We can’t always assume we’re going to have responsible people with whom we agree and trust in these positions,” said Sen. Angus King, I-Maine, who sits on the Senate Intelligence Committee. “The essence of the Constitution is, it shouldn’t matter who is in charge; they’re still constrained by principles and rules of the Constitution and of the Bill of Rights.”

PEER PRESSURE

Obama promised in his 2013 State of the Union to increase the drone program’s transparency. “In the months ahead, I will continue to engage Congress to ensure not only that our targeting, detention, and prosecution of terrorists remains consistent with our laws and system of checks and balances, but that our efforts are even more transparent to the American people and to the world,” the president said on Feb. 12. Since then, the administration, under pressure from allies on Senate Intelligence, agreed to release all of the legal memos the Justice Department drafted in support of targeted killing.

But, beyond that, it’s not certain Obama will do anything more to shine light on this program. Except in situations where leaks help it tell a politically expedient story of its skill at killing bad guys, the administration has done little to make a case to the public and the world at large for its use of armed drones.

Already, what’s become apparent is that the White House is not interested in changing much about the way it communicates strike policy. (It took Sen. Rand Paul’s 13-hour filibuster of CIA Director John Brennan’s nomination to force the administration to concede that it doesn’t have the right to use drones to kill noncombatant Americans on U.S. soil.) And government officials, as well as their surrogates on security issues, are actively trying to squash expectations that the administration would agree to bring the judicial branch into the oversight mix. Indeed, judicial review of any piece of the program is largely off the table now, according to intelligence officials and committee members.

Under discussion within the administration and on Capitol Hill is a potential program takeover by the Pentagon, removing the CIA from its post-9/11 role of executing military-like strikes. Ostensibly, that shift could help lift the secret-by-association-with-CIA attribute of the program that some officials say has kept them from more freely talking about the legitimate military use of drones for counterterrorism operations. But such a fix would provide no guarantee of greater transparency for the public, or even Congress.

And if the administration is not willing to share with lawmakers who are security-cleared to know, it certainly is not prepared to engage in a sensitive discussion, even among allies, that might begin to set the rules on use for a technology that could upend stability in already fragile and strategically significant places around the globe. Time is running out to do so.

“The history of technology development like this is, you never maintain your lead very long. Somebody always gets it,” said David Berteau, director of the International Security Program at the Center for Strategic and International Studies. “They’re going to become cheaper. They’re going to become easier. They’re going to become interoperable,” he said. “The destabilizing effects are very, very serious.”

Berteau is not alone. Zenko, of the Council on Foreign Relations, has urged officials to quickly establish norms. Singer, at Brookings, argues that the window of opportunity for the United States to create stability-supporting precedent is quickly closing. The problem is, the administration is not thinking far enough down the line, according to a Senate Intelligence aide. Administration officials “are thinking about the next four years, and we’re thinking about the next 40 years. And those two different angles on this question are why you see them in conflict right now.”

That’s in part a symptom of the “technological optimism” that often plagues the U.S. security community when it establishes a lead over its competitors, noted Georgetown University’s Kai-Henrik Barth. After the 1945 bombing of Hiroshima and Nagasaki, the United States was sure it would be decades before the Soviets developed a nuclear-weapon capability. It took four years.

With drones, the question is how long before the dozens of states with the aircraft can arm and then operate a weaponized version. “Pretty much every nation has gone down the pathway of, ‘This is science fiction; we don’t want this stuff,’ to, ‘OK, we want them, but we’ll just use them for surveillance,’ to, ‘Hmm, they’re really useful when you see the bad guy and can do something about it, so we’ll arm them,’ ” Singer said. He listed the countries that have gone that route: the United States, Britain, Italy, Germany, China. “Consistently, nations have gone down the pathway of first only surveillance and then arming.”

The opportunity to write rules that might at least guide, if not restrain, the world’s view of acceptable drone use remains, not least because this is in essence a conventional arms-control issue. The international Missile Technology Control Regime attempts to restrict exports of unmanned vehicles capable of carrying weapons of mass destruction, but it is voluntary and nonbinding, and it’s under attack by the drone industry as a drag on business. Further, the technology itself, especially when coupled with data and real-time analytics, offers the luxury of time and distance that could allow officials to raise the evidentiary bar for strikes—to be closer to certain that their target is the right one.

But even without raising standards, tightening up drone-specific restrictions in the standing control regime, or creating a new control agreement (which is never easy to pull off absent a bad-state actor threatening attack), just the process of lining up U.S. policy with U.S. practice would go a long way toward establishing the kind of precedent on use of this technology that America—in five, 10, or 15 years—might find helpful in arguing against another’s actions.

A not-insignificant faction of U.S. defense and intelligence experts, Dennis Blair among them, thinks norms play little to no role in global security. And they have evidence in support. The missile-technology regime, for example, might be credited with slowing some program development, but it certainly has not stopped non-signatories—North Korea and Iran—from buying, building, and selling missile systems. But norms established by technology-leading countries, even when not written into legal agreements among nations, have shown success in containing the use and spread of some weapons, including land mines, blinding lasers, and nuclear bombs.

Arguably more significant than spotty legal regimes, however, is the behavior of the United States. “History shows that how states adopt and use new military capabilities is often influenced by how other states have—or have not—used them in the past,” Zenko argued. Despite the legal and policy complexity of this issue, it is something the American people have, if slowly, come to care about. Given the attention that Rand Paul’s filibuster garnered, it is not inconceivable that public pressure on drone operations could force the kind of unforeseen change to U.S. policy that it did most recently on “enhanced interrogation” of terrorists.

The case against open, transparent rule-making is that it might only hamstring American options while doing little good elsewhere—as if other countries aren’t closely watching this debate and taking notes for their own future policymaking. But the White House’s refusal to answer questions about its drone use with anything but “no comment” ensures that the rest of the world is free to fill in the blanks where and when it chooses. And the United States will have already surrendered the moment in which it could have provided not just a technical operations manual for other nations but a legal and moral one as well.

US precedent will be modeled in the middle east – causes unchecked drone use

Zenko 12 (Micah – fellow at Council of Foreign Relations, “Collateral Damage: The Dangerous Precedents of America's Drone Wars” 24 Jul 2012, World Politics Review)

The nearly ubiquitous unpopularity of U.S. drone strikes stems, at least in part, from the fact that **the U**nited **S**tates **is the only country, other than** perhaps **Israel, to use drones to** attack the sovereign territory of other countries. And the status quo is unlikely to change in the near future. The United States remains the unrivaled leader in developing drone technology, projected to account for 62 percent of drone research (.pdf) and development spending and 55 percent of all procurement over the next decade.

Nevertheless, this near-monopoly will inevitably erode, as the advantages and effectiveness of drones in attacking hard-to-reach and time-sensitive targets are compelling many countries to explore purchasing or indigenously developing their own fleet. Estimates of countries with active drone programs range from 44 to 70, and roughly 680 drone development projects are currently being pursued around the world, a significant jump from 195 such programs in 2005.

The vast majority of all drones developed by other countries are used for government or civilian intelligence, surveillance and reconnaissance (ISR) missions. And despite worst-case theories about the future of drone operations, few countries will have the complete system architecture -- such as host-nation permission to base drones and associated launch and recovery personnel, nearby search-and-rescue forces and satellite bandwidth to transmit data -- required to conduct distant drone strikes in the American style. The most likely candidates for drone strikes will be the countries that have a combination of three factors: the requisite industrial base to develop or purchase the technology; the military command-and-control capabilities needed to deploy armed drones; and crossborder adversaries who are currently targeted with attacks or the threat of attack by manned aircraft. In other words, don’t expect China to bomb Tibetan dissidents in Brooklyn, but **don’t be surprised to eventually see headlines reporting** drone strikes by Israel into Lebanon, Egypt or Syria; Russia into Georgia or Azerbaijan; **Turkey into Iraq; Saudi Arabia into Yemen**; North Korea into South Korea; Kenya into Somalia; or Sudan into South Sudan.

In the meantime, other countries will be keeping a close eye **on how the U.S. chooses to** use and defend **drone strikes**, something that the Obama administration is aware of. In a speech outlining the limits and principles for U.S. targeted killings, White House senior counterterrorism adviser John Brennan conceded, “We are establishing precedents that other nations may follow.” And despite efforts by successive administrations to hide the uglier aspects of such precedents -- such as potentially targeting children, individuals attempting to rescue drone strike victims and the funeral processions of deceased militants -- we know enough to be concerned about how others might eventually employ drones to target their adversaries. But the most dangerous precedent is the mistaken belief that the low-cost, targeted and ultimately impressive tactic of drone strikes is the long-term solution to any enduring political or security challenge.

Escaates Israel- Hezbollah drone wars

Dreazen 13 (Yochi Dreazen is a senior writer for Foreign Policy, covering national security and foreign affairs. He is also writer-in-residence at the Center for a New American Security, “ On Drones, Fences and Future Wars “ August 13, 2013, Pulitzer Center)

The **Obama** administration **is using drones to kill militants** the world over. But what happens when drones come into wide usage by countries other than the U.S.?

That's already happening in northern Israel, the only place in the world where both sides of a conflict are using drones of growing sophistication and lethality. Israel is using armed drones to fire missiles at militants on the ground in the Gaza Strip and West Bank and unarmed ones to fly surveillance missions along its increasingly-unstable borders with Syria and Lebanon. Hezbollah has begun flying unarmed drones into Israeli air space, and American and Israeli officials believe that **the Lebanese-based militia is working** with Iran **to** **develop** drones capable of dropping bombs **on targets within Israel** proper. Officials in Jerusalem and Washington say that there are also early indications that **Iranian-mode drones are making their way to Hamas militants** as well.

**The** intensifying drone war **between Israel and Hezbollah is a** harbinger of what will come in the years ahead as more and more nations begin fielding drone fleets. Earlier this year China openly admitted that it considered using a drone strike to kill a wanted drug lord in Myanmar, only to abandon the plan at the last minute. Russia, Iran, Pakistan and North Korea have fielded drones or are in the final stages of putting them into use. The Gulf states, meanwhile, are trying to buy American drones. Failing that, the governments of Saudi Arabia, the UAE and Qatar have said they will build drones of their own.

All of that raises a host of tough questions for the U.S. How should the White House respond if it found concrete evidence that Russia was selling advanced, weaponized drones to Hezbollah or Hamas? Should the U.S. try to develop a non-proliferation regime for armed drones, and if so, how would it be enforced? More fundamentally, what could the U.S. do to prevent foreign governments from using drones to kill targets inside other countries given the precedent set by Washington’s willingness to do exactly that same thing for nearly a decade?

That escalates to broader conflict

Blanford 13 (Nicholas – journalist @ Daily Star, “Are Israeli drones being attacked in the skies above Lebanon?” Feb 26, 2013, The Daily Star; Lebanon)

The straight horizontal white contrails left by Israeli jets criss-crossing Lebanese skies on a near daily basis are a common sight. Less common was the contrail that rose through a blue sky Sunday afternoon in a twisting, weaving path on a near vertical trajectory from somewhere in the Bekaa Valley before dissipating a minute or two later. The contrail, spotted by a Daily Star correspondent in Laqlouq, carried the hallmarks of an anti-aircraft missile launch.

From the direction of the contrail in relation to Laqlouq, the missile launch site appeared to originate from a belt of territory stretching across the Bekaa from Baalbek at the southern end to Younine, 10 kilometers further north.

An-Nahar newspaper reported Monday that two missiles had been fired from the Bekaa “in mysterious circumstances” without further elaborating. The Lebanese Army said in a statement Monday that three Israeli aircraft – two jets and a **reconnaissance drone** – had flown above Lebanon Sunday. The drone crossed the southern border above Rmeish at 3:10 p.m. and “executed circular flights of the Riyaq and Baalbek regions” before departing Lebanese airspace at 5:35 p.m. above Naqoura, the statement said. The timing and location of the drone flight fits in with the apparent missile launch, which occurred around 4:15 p.m.

This latest sighting comes just four days after the tail of an anti-aircraft missile crashed into an area near the southeast border town of Deir al-Ashayer. The circumstances of that launch are still unclear, although several reports from Lebanese and Syrian media said the Syrian army had shot down an Israeli drone. The Israelis have made no comment on either last week’s incident above Deir al-Ashayer or Sunday’s missile firing in the northern Bekaa.

The two **incidents of anti-aircraft fire – a highly unusual development in the context of the Hezbollah-Syria-Israel theater – comes** **amid increased Israeli aerial activity in Lebanese skies in the past two months** and an unprecedented Israeli airstrike against a suspected arms convoy near Damascus three weeks ago.

Numerous reports quoted U.S. and Israeli sources as claiming that the target of the Jan. 30 attack had been one or more SA-17 Grizzly missile batteries, an advanced Russian air defense system. Syria said the target of the raid had been a research facility at Jamraya and broadcast footage of damage to the site.

However, satellite images of the facility taken after the airstrike and broadcast on Israeli television appeared to confirm that the research facility had not been the primary target and only sustained collateral damage when the nearby column of vehicles was struck. Among the damaged vehicles shown on Syrian TV were three SA-8 Gecko anti-aircraft missile launch vehicles.

In 2009, it was reported that Hezbollah units were being trained on the SA-8 Gecko at Syrian military bases, although none of the units were believed to have been transferred to Lebanon at the time. Syria acquired three SA-17 batteries from Russia following Israel’s airstrike against a suspected nuclear facility under construction near Deir al-Zor in northeast Syria in 2007. Two of the batteries were reportedly deployed along the Syria-Lebanon border by April 2012 and the third was retained for training.

Given the lingering, albeit fading, threat of a NATO-imposed no-fly zone over parts of Syria and the fact that there are only three SA-17 batteries in Syria’s possession, it would seem unlikely that Damascus would be willing to hand to Hezbollah one of its most sophisticated air defense systems, assuming the resistance group has the logistical and technical expertise to handle it in the first place. Perhaps the target instead was the SA-8 Gecko batteries shown damaged on Syrian TV. The provision of SA-8 batteries to Hezbollah also would be considered by Israel as a breach of its “red line,” requiring action.

Syria, Iran and Hezbollah condemned the Israeli attack, but there was no immediate retaliation.

Given the circumstances in Syria and the calm along the Blue Line in south Lebanon that has prevailed since the end of the 2006 war, choosing a means of retaliation is fraught with risk.

If Syria and its allies ignore the Israeli strike, it does nothing to dissuade Israel from repeating such actions, particularly as **it can be expected that Hezbollah will continue to try and bring into Lebanon arms of sufficient power to uphold its deterrence posture against Israel.**

**However, a retaliation risks** causing an escalation **between Hezbollah and Israel the likes of** which has not been seen since before the 2006 war**.**

ME instability goes nuclear

James A. **Russell,** Senior Lecturer, National Security Affairs, Naval Postgraduate School, ‘9 (Spring) “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers, #26, http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

Norms solve Israel strikes in the Sinai which causes conflict with Egypt

Schenker 13 (David Schenker is director of the Program on Arab Politics at the Washington Institute for Near East Policy., 8/13/2013, "How the Israeli Drone Strike in the Sinai Might Backfire", www.theatlantic.com/international/archive/2013/08/how-the-israeli-drone-strike-in-the-sinai-might-backfire/278628/)

In April 1982, Israel withdrew the last of its military forces from Egypt's Sinai Peninsula. On Friday, for the first time in more than 30 years, Israeli military assets reportedly reentered Egyptian territory. On August 9, an Israeli drone operating in Sinai airspace with Egyptian approval killed five militants preparing to launch a rocket into Israel. The proactive Israeli action may herald a positive new dynamic in Israeli-Egyptian relations. But for the Egyptian military--which depends on popular goodwill to govern post-coup Egypt--enhanced security coordination with Israel might not be politically sustainable. Already, this unprecedented move has provoked a backlash against the generals. Ever since the toppling of Egypt's longtime President Hosni Mubarak in 2011, security in the Sinai--a region long underserved by Cairo--has become precarious. During the revolution, Egyptian intelligence, which had previously been responsible for securing the Sinai, was routed, leaving the task to the military -- the country's sole remaining, functioning national institution. Unenthusiastic about and ill-equipped for the mission, the military did little and security in the Sinai rapidly deteriorated. In a matter of months, Al-Qaeda and other dangerous Islamist elements started to take root among the increasingly radicalized local Bedouins. Over the past two years, Egyptian and foreign jihadis--as well as Palestinian terrorists entering the Sinai via tunnels from Gaza-- have launched dozens of attacks in the Peninsula. While most of the operations have targeted Egyptian police and border guards, on occasion soldiers have been killed and kidnapped and tourists abducted. Militants have also assaulted and snatched troops in the Multinational Force Observers or MFO, which are deployed in the Sinai to monitor the terms of the Israeli-Egyptian peace treaty. More potentially destabilizing, these terrorists have infiltrated Israel--killing six civilians and two soldiers in one August 2011 operation--and fired rockets across the border. Friday's drone strike came just one day after an unprecedented temporary closure of Israel's Eilat airport. At the time, militants in the Sinai were believed to be preparing to target Israeli civilian aircraft with rockets or shoulder fired missiles procured from post-Qaddafi's Libya. On the positive side, the Israeli strike suggests extremely close security and intelligence coordination between the Israeli Defense Force (IDF) and the Egyptian military. The cooperation comes as little surprise: both sides quietly say that mil-to-mil cooperation has never been better. Confidence is so high that just last month Israel authorized Egypt to deploy two addition infantry battalions to the Sinai to counter the terrorist threat. This comes after the militaries negotiated more than two dozen Egyptian requests since 2011 to move supplemental troops and equipment, including tanks, into the desert. In the past month, the Egyptian military has engaged in a crackdown on Sinai terrorism that reportedly killed some 60 militants. This is great news, particularly given that since the revolution, official civilian government-to-government contact has practically ceased to exist. At the same time, however, the high level of cooperation poses some potential challenges for Egypt's military. The Egyptian military--and especially its commanding General Abdul Fattah al Sisi--currently enjoys great popularity and a level of legitimacy that will be required to navigate this sensitive period of political transition following last month's coup that removed the democratically elected Islamist president. A majority of the population appears to support the president's ouster, but many people clearly do not. While Egyptians remain divided about the coup, however, Israel remains a consensus issue: most Egyptians loathe Israel and find the notion of ongoing security cooperation with the Jewish state to be extremely distasteful. Since the revolution, one of the more resonant tropes of populist politicians in Egypt has been the call to "renegotiate" the Camp David treaty with Israel --and particularly the Sinai security provisions, which many Egyptians consider to be an unacceptable legal surrender of national sovereignty. News of the Israeli drone strike has reignited anger over perceived slights to Egyptian self-determination in the Sinai. Muslim Brotherhood spokesman Ahmed Arif, for example, described the Israeli attack as "a national disaster and a flagrant violation of all the principals and traditions of the military." Meanwhile, the Foreign Affairs committee of the now-defunct upper house of parliament known as the Shura Council has condemned the "Zionist violation of Egyptian territory." These statements were echoed by Ansar Beit Muqaddas, the terrorist organization targeted in the attack, which issued a statement asking "What is greater treason than the Egyptian army allowing the Zionist drones to violate Egyptian airspace now and then?" In addition to raising questions about Egyptian authority over the Sinai, the Israeli drone attack will foster the unflattering perception that the Egyptian military is unable alone to contain the terrorist threat on its soil. To date, Egyptian supporters of the military's ouster of the Islamist president have refrained from criticizing the Israeli action in the Sinai. The prominent author Alaa Al-Aswany, a leading voice in this camp, has even gone so far as to accuse the Muslim Brotherhood of "exploiting" the strike for political gain. But it's not clear how long this cohort will continue to tolerate the collaboration. Al-Aswany's Twitter account is replete with condemnations of Israel and Zionists. The Egyptian military is no doubt aware that its leading supporters will not abide Israeli drones over Sinai airspace indefinitely. Clearly concerned about the impact of the reports, the military denied Israeli involvement in the Sinai incident in a statement on its Facebook page on Friday afternoon--just hours after the reports of the drone strike appeared. Highlighting this sensitivity, shortly after the bombing, mobile phone service in the Sinai was interrupted--most likely by the military--to limit further damaging reporting of the story. While this one incident may not have a lasting impact on the Egyptian military's popularity or local legitimacy, should Israeli strikes in the Sinai be sustained, it could erode some of the institution's luster. It could also undermine Sisi's popularity, and if he indeed harbors them, his hopes of becoming Egypt's next president. More troubling, though, if Israel continues to act as Egypt's proxy terrorist hunters, it could have the unintended effect of drawing even more militants looking to wage a jihad against Israel from this lawless desert expanse.

Extinction

Zitun 9/5/11

[http://www.ynetnews.com/articles/0,7340,L-4118220,00.html](http://www.ynetnews.com/articles/0%2C7340%2CL-4118220%2C00.html)

staff writer, quoting Senior IDF officer

 IDF general: Likelihood of regional war growing Senior IDF officer warns of 'radical Islamic winter' that may lead to regional war, could prompt use of WMDs; new, more lethal weapons discovered in hands of terrorists during latest round of fighting in Gaza, Major General Eisenberg says Recent revolutions in the Arab world and the deteriorating ties with Turkey are raising the likelihood of a regional war in the Middle East, IDF Home Front Command Chief, Major General Eyal Eisenberg warned Monday. "It looks like the Arab Spring, but it can also be a radical Islamic winter," he said in a speech at the Institute for National Security Studies in Tel Aviv. "This leads us to the conclusion that through a long-term process, the likelihood of an all-out war is increasingly growing," the IDF general said. "Iran has not abandoned its nuclear program. The opposite it true; it continues full steam ahead," he said. "In Egypt, the army is collapsing under the burden of regular security operations, and this is reflected in the loss of control in the Sinai and the turning of the border with Israel into a terror border, with the possibility that Sinai will fall under the control of an Islamic entity." IDF general: Likelihood of regional war growing Senior IDF officer warns of 'radical Islamic winter' that may lead to regional war, could prompt use of WMDs; new, more lethal weapons discovered in hands of terrorists during latest round of fighting in Gaza, Major General Eisenberg says Recent revolutions in the Arab world and the deteriorating ties with Turkey are raising the likelihood of a regional war in the Middle East, IDF Home Front Command Chief, Major General Eyal Eisenberg warned Monday. In Lebanon, Hezbollah is growing stronger within government arms, but it has not lost its desire to harm Israel, and the ties with Turkey aren't at their best," Major General Eisenberg added. Weapons of mass destruction? Referring to what he characterized as the possibility of a "radical Islamic winter," Major-General Eisenberg said: "This raises the likelihood of an all-out, total war, with the possibility of weapons of mass destruction being used." During his address, the senior IDF official revealed that new, more lethal arms surfaced in the hands of Gaza terror groups during the latest round of fighting in the area. As result of the disturbing development, Israeli civilians were instructed to adopt greater precautions, he said. "We discovered a new weapon, and as result of this we instructed the public to hide under two roofs, rather than only one," he said. Eisenberg added that some 25% of local authorities in Israel are ill prepared to face emergency situations. However, Major General Eisenberg's words infuriated some security and defense officials, who slammed the senior IDF officer for revealing classified information and provoking regional tensions. "It's unclear why an IDF general heats up tensions in the region and why he exposes secret intelligence information about new Palestinian capabilities," one official said. Notably, Eisenberg's remarks were approved for publication by censorship officials.

### solvency

Only congressional action on the scope of hostilities sends a clear signal that the US abides by the laws of armed conflict

Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 3/18/10, Rise of the Drones: Unmanned Systems and the Future of War, digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1002&context=pub\_disc\_cong

• First, the United States government urgently needs publicly to declare the legal rationale behind its use of drones, and defend that legal rationale in the international community, which is increasingly convinced that parts, if not all, of its use is a violation of international law.

• Second, the legal rationale offered by the United States government needs to take account, not only of the use of drones on traditional battlefields by the US military, but also of the Obama administration’s signature use of drones by the CIA in operations outside of traditionally conceived zones of armed conflict, whether in Pakistan, or further afield, in Somalia or Yemen or beyond. This legal rationale must be certain to protect, in plain and unmistakable language, the lawfulness of the CIA’s participation in drone-related uses of force as it takes place today, and to protect officials and personnel from moves, in the United States or abroad, to treat them as engaged in unlawful activity. It must also be broad enough to encompass the use of drones (under the statutory arrangements long set forth in United States domestic law) by covert civilian agents of the CIA, in operations in the future, involving future presidents, future conflicts, and future reasons for using force that have no relationship to the current situation.

• Third, the proper legal rationale for the use of force in drone operations in special, sometimes covert, operations outside of traditional zones of armed conflict is the customary international law doctrine of self-defense, rather than the narrower law of armed conflict.

• Fourth, Congress has vital roles to play here, mostly in asserting the legality of the use of drones. These include: (i) Plain assertion of the legality of the programs as currently used by the Obama administration, as a signal to courts in the US as well as the international community and other interested actors, that the two political branches are united on an issue of vital national security and foreign policy. (ii) Congressional oversight mechanisms should also be strengthened in ensuring Congress’s meaningful knowledge and ability to make its views known. (iii) Congress also should consider legislation to clarify once and for all that that covert use of force is lawful under US law and international law of self-defense, and undertake legislation to make clear the legal protection of individual officers. (iv) Congress should also strongly encourage the administration to put a public position on the record. In my view, that public justification ought to be something (self-defense, in my view) that will ensure the availability of targeted killing for future administrations outside the context of conflict with Al Qaeda – and protect against its legal erosion by acquiescing or agreeing to interpretations of international law that would accept, even by implication, that targeted killing by the civilian CIA using drones is per se an unlawful act of extrajudicial execution.

The Multiple Strategic Uses of Drones and Their Legal Rationales

4. Seen through the lens of legal policy, drones as a mechanism for using force are evolving in several different strategic and technological directions, with different legal implications for their regulation and lawful use. From my conversations and research with various actors involved in drone warfare, the situation is a little bit like the blind men and the elephant – each sees only the part, including the legal regulation, that pertains to a particular kind of use, and assumes that it covers the whole. The whole, however, is more complicated and heterogeneous. They range from traditional tactical battlefield uses in overt war to covert strikes against non-state terrorist actors hidden in failed states, ungoverned, or hostile states in the world providing safe haven to terrorist groups. They include use by uniformed military in ordinary battle but also use by the covert civilian service.

5. Although well-known, perhaps it bears re-stating the when this discussion refers to drones and unmanned vehicle systems, the system is not “unmanned” in the sense that human beings are not in the decision or control loop. Rather, “unmanned” here refers solely to “remote-piloted,” in which the pilot and weapons controllers are not physically on board the aircraft. (“Autonomous” firing systems, in which machines might make decisions about the firing of weapons, raise entirely separate issues not covered by this discussion because they are not at issue in current debates over UA Vs.)

6. Drones on traditional battlefields. The least legally complicated or controversial use of drones is on traditional battlefields, by the uniformed military, in ordinary and traditional roles of air power and air support. From the standpoint of military officers involved in such traditional operations in Afghanistan, for example, the use of drones is functionally identical to the use of missile fired from a standoff fighter plane that is many miles from the target and frequently over-the-horizon. Controllers of UAVs often have a much better idea of targeting than a pilot with limited input in the cockpit. From a legal standpoint, the use of a missile fired from a drone aircraft versus one fired from some remote platform with a human pilot makes no difference in battle as ordinarily understood. The legal rules for assessing the lawfulness of the target and anticipated collateral damage are identical.

7. Drones used in Pakistan’s border region. Drones used as part of the on-going armed conflict in Afghanistan, in which the fighting has spilled over – by Taliban and Al Qaeda flight to safe havens, particularly – into neighboring areas of Pakistan likewise raise relatively few questions about their use, on the assumption that the armed conflict has spilled, as is often the case of armed conflict, across an international boundary. There are no doubt important international and diplomatic questions raised about the use of force across the border – and that is presumably one of the major reasons why the US and Pakistan have both preferred the use of drones by the CIA with a rather shredded fig leaf, as it were, of deniability, rather than US military presence on the ground in Pakistan. The **legal questions are important**, but (unless one takes the view that the use of force by the CIA is always and per se illegal under international law, even when treated as part of the armed forces of a state in what is unquestionably an armed conflict) there is nothing legally special about UAVs that would distinguish them from other standoff weapons platforms.

8. Drones used in Pakistan outside of the border region. The use of drones to target Al Qaeda and Taliban leadership outside of places in which it is factually plain that hostilities are underway begins to invoke the current legal debates over drone warfare. From a strategic standpoint, of course, the essence of much fighting against a raiding enemy is to deny it safe haven; as safe havens in the border regions are denied, then the enemy moves to deeper cover. The strategic rationale for targeting these leaders (certainly in the view of the Obama administration) is overwhelming. Within the United States, and even more without, arguments are underway as to whether Pakistan beyond the border regions into which overt fighting has spilled can justify reach to the law of armed conflict as a basis and justification for drone strikes.

9. Drones used against Al Qaeda affiliates outside of AfPak – Somalia, Yemen or beyond. The President, in several major addresses, has stressed that the United States will take the fight to the enemy, and pointedly included places that are outside of any traditionally conceived zone of hostilities in Iraq or AfPak – Somalia and Yemen have each been specifically mentioned. And indeed, the US has undertaken uses of force in those places, either by means of drones or else by human agents. The Obama administration has made clear – entirely correctly, in my view – that it will deny safe haven to terrorists. As the president said in an address at West Point in fall 2009, we “cannot tolerate a safe-haven for terrorists whose location is known, and whose intentions are clear.”1 In this, the President follows the long-standing, traditional view of the US government endorsing, as then-State Department Legal Advisor Abraham Sofaer put it in a speech in 1989, the “right of a State to strike terrorists within the territory of another State where terrorists are using that territory as a location from which to launch terrorist attacks and where the State involved has failed to respond effectively to a demand that the attacks be stopped.”2

10. The United States might assert in these cases that the armed conflict goes where the combatants go, in the case particularly of an armed conflict (with non-state actors) that is already acknowledged to be underway. In that case, those that it targets are, in its view, combats that can lawfully be targeted, subject to the usual armed conflict rules of collateral damage. One says this without knowing for certain whether this is, in fact, the US view – although the Obama administration is under pressure for failing to articulate a public legal view, this was equally the case for the preceding two administrations. In any case, however, that view is sharply contested as a legal matter. The three main contending legal views at this point are as follows:

• One legal view (the traditional view and that presumably taken by the Obama administration, except that we do not know for certain, given its reticence) is that we are in an armed conflict. Wherever the enemy goes, we are entitled to follow and attack him as a combatant. Geography and location – important for diplomatic reasons and raising questions about the territorial integrity of states, true – are irrelevant to the question of whether it is lawful to target under the laws of war; the war goes where the combatant goes. We must do so consistent with the laws of war and attention to collateral damage, and other legal and diplomatic concerns would of course constrain us if, for example, the targets fled to London or Istanbul. But the fundamental right to attack a combatant, other things being equal, surely cannot be at issue.

• A second legal view directly contradicts the first, and says that the legal rights of armed conflict are limited to a particular theatre of hostilities, not to wherever combatants might flee throughout the world. This creates a peculiar question as to how, lawfully, hostilities against a non-state actor might ever get underway. But the general legal policy response is that if there is no geographic constraint consisting of a “theatre” of hostilities, then the very special legal regime of the laws of armed conflict might suddenly, and without any warning, apply – and overturn – ordinary laws of human rights that prohibit extrajudicial execution, and certainly do not allow attacks subject merely to collateral damage rules, with complete surprise and no order to it. Armed conflict is defined by its theatres of hostilities, on this view, as a mechanism for limiting the scope of war and, importantly, the reach of the laws of armed conflict insofar as the displace (with a lower standard of protection) ordinary human rights law. Again, this leaves a deep concern that this view, in effect, empowers the fleeing side, which can flee to some place where, to some extent, it is protected against attack.

• A third legal view (to which I subscribe) says that armed conflict under the laws of war, both treaty law of the Geneva Conventions and customary law, indeed accepts that non-international armed conflict is defined, and therefore limited by, the presence of persistent, sustained, intense hostilities. In that sense, then, an armed conflict to which the laws of war apply exists only in particular places where those conditions are met. **That is not the end of the legal story, however**. Armed conflict as defined under the Geneva Conventions (common articles 2 and 3) is not the only international law basis for governing the use of force. The international law of self-defense is a broader basis for the use of force in, paradoxically, more limited ways that do not rise to the sustained levels of fighting that legally define hostilities.

• Why is self-defense the appropriate legal doctrine for attacks taking place away from active hostilities? From a strategic perspective, a large reason for ordering a limited, pinprick, covert strike is in order to avoid, if possible, an escalation of the fighting to the level of overt intensity that would invoke the laws of war – the intent of the use of force is to avoid a wider war. Given that application of the laws of war, in other words, requires a certain level of sustained and intense hostilities, that is not always a good thing. It is often bad and precisely what covert action seeks to avoid. The legal basis for such an attack is not armed conflict as a formal legal matter – the fighting with a non-state actor does not rise to the sustained levels required under the law’s threshold definition – but instead the law of self-defense.

• Is self-defense law simply a standardless license wantonly to kill? This invocation of self-defense law should not be construed as meaning that it is without limits or constraining standards. On the contrary, it is not standardless, even though it does not take on all the detailed provisions of the laws of war governing “overt” warfare, including the details of prison camp life and so on. It must conform to the customary law standards of necessity and proportionality – necessity in determining whom to target, and proportionality in considering collateral damage. The standards in those cases should essentially conform to military standards under the law of war, and in some cases the standards should be still higher.

11. The United States government seems, to judge by its lack of public statements, remarkably indifferent to the increasingly vehement and pronounced rejection of the first view, in particular, that the US can simply follow combatants anywhere and attack them. The issue is not simply collateral damage in places where no one had any reason to think there was a war underway; prominent voices in the international legal community question, at a minimum, the lawfulness of even attacking what they regard as merely alleged terrorists. In the view of important voices in international law, the practice outside of a traditional battlefield is a violation of international human rights law guarantees against extrajudicial execution and, at bottom, is just simple murder. On this view, the US has a human rights obligation to seek to arrest and then charge under some law; it cannot simply launch missiles at those it says are its terrorist enemies. It shows increasing impatience with US government silence on this issue, and with the apparent – but quite undeclared – presumption that the armed conflict goes wherever the combatants go.

12. Thus, for example, the UN special rapporteur on extrajudicial execution, NYU law professor Philip Alston, has asked in increasingly strong terms that, at a minimum, the US government explain its legal rationales for targeted killing using drones. The American Civil Liberties Union in February 2010 filed an extensive FOIA request (since re-filed as a lawsuit), seeking information on the legal rationales (but including requests for many operational facts) for all parts of the drones programs, carefully delineating military battlefield programs and CIA programs outside of the ordinary theatres of hostilities. Others have gone much further than simply requests that the US declare its legal views and have condemned them as extrajudicial execution – as Amnesty International did with respect to one of the earliest uses of force by drones, the 2002 Yemen attack on Al Qaeda members. The addition of US citizens to the kill-or-capture list, under the authorization of the President, has raised the stakes still further. The stakes, in this case, are highly unlikely to involve President Obama or Vice-President Biden or senior Obama officials. They are far more likely to involve lower level agency counsel, at the CIA or NSC, who create the target lists and make determinations of lawful engagement in any particular circumstance. It is they who would most likely be investigated, indicted, or prosecuted in a foreign court as, the US should take careful note, has already happened to Israeli officials in connection with operations against Hamas. **The reticence of the US government on this matter is frankly hard to justify**, at this point; this is not a criticism per se of the Obama administration, because the George W. Bush and Clinton administrations were equally unforthcoming. But this is the Obama administration, and **public silence on the legal legitimacy of targeted killings especially in places** and ways **that are not obviously** by the military in obvious **battlespaces is increasingly problematic**.

13. Drones used in future circumstances by future presidents against new non-state terrorists. A government official with whom I once spoke about drones as used by the CIA to launch pinpoint attacks on targets in far-away places described them, in strategic terms, as the “lightest of the light cavalry.” He noted that if terrorism, understood strategically, is a “raiding strategy” launched largely against “logistical” rather than “combat” targets – treating civilian and political will as a “logistical target” in this strategic sense – then how should we see drone attacks conducted in places like Somalia or Yemen or beyond? We should understand them, he said, as a “counter-raiding” strategy, aimed not at logistical targets, but instead at combat targets, the terrorists themselves. Although I do not regard this use of “combat” as a legal term – because, as suggested above, the proper legal frame for these strikes is self-defense rather than “armed conflict” full-on – as a strategic description, this is apt.

14. This blunt description suggests, however, that it is a profound mistake to think that the importance of drones lies principally on the traditional battlefield, as a tactical support weapon, or even in the “spillover” areas of hostilities. In those situations, it is perhaps cheaper than the alternatives of manned systems, but is mostly a substitute for accepted and existing military capabilities. Drone attacks become genuinely special as a form of strategic, yet paradoxically discrete, air power outside of overt, ordinary, traditional hostilities – the farthest project of discrete force by the lightest of the light cavalry. As these capabilities develop in several different technological direction – on the one hand, smaller vehicles, more contained and limited kinetic weaponry, and improved sensors and, on the other hand, large-scale drone aircraft capable of going after infrastructure targets as the Israelis have done with their Heron UAVs – it is highly likely that they will become a weapon of choice for future presidents, future administrations, in future conflicts and circumstances of self- defense and vital national security of the United States. Not all the enemies of the United States, including transnational terrorists and non-state actors, will be Al Qaeda or the authors of 9/11. Future presidents will need these technologies and strategies – and will need to know that they have sound, publicly and firmly asserted legal defenses of their use, including both their use and their limits in law.

Status quo administration policy delineates between geographic zones, but our legal justification for war everywhere remains in place

Anthony Dworkin 13, senior policy fellow at the European Council on Foreign Relations, “Drones And Targeted Killing: Defining A European Position”, July, <http://ecfr.eu/page/-/ECFR84_DRONES_BRIEF.pdf>

Two further points are worth noting. First, the administration has acknowledged that in the case of American citizens, even when they are involved in the armed conflict, the US Constitution imposes additional requirements of due process that bring the threshold for targeted killing close to that involved in a self-defence analysis. These requirements were listed in a Department of Justice white paper that became public earlier this year.26 Second, **the administration has** at times **suggested** that even in the case of non-Americans **its policy is to concentrate its efforts against individuals who pose a significant and imminent threat to the US**. For example, John Brennan said in his Harvard speech in September 2011 that the administration’s counterterrorism efforts outside Afghanistan and Iraq were “focused on those individuals who are a threat to the United States, whose removal would cause a significant – even if only temporary – disruption of the plans and capabilities of al-Qaeda and its associated forces”.27

However, the **details** that have emerged about US targeting practices in the past few years **raise questions about how closely this approach has been followed in practice**. An analysis published by McClatchy Newspapers in April, based on classified intelligence reports, claimed that 265 out of 482 individuals killed in Pakistan in a 12-month period up to September 2011 were not senior al-Qaeda operatives but instead were assessed as Afghan, Pakistani, and unknown extremists.28 It has been widely reported that in both Pakistan and Yemen the US has at times carried out “signature strikes” or “Terrorist Attack Disruption Strikes” in which groups are targeted based not on knowledge of their identity but on a pattern of behaviour that complies with a set of indicators for militant activity. It is widely thought that these attacks have accounted for many of the civilian casualties caused by drone strikes. In both Pakistan and Yemen, there may have been times when some drone strikes – including signature strikes – could perhaps best be understood as counterinsurgency actions in support of government forces in an internal armed conflict or civil war, and in this way lawful under the laws of armed conflict. Some attacks in Pakistan may also have been directly aimed at preventing attacks across the border on US forces in Afghanistan. However, **by presenting its drone programme overall as part of** a global armed conflict. the **Obama** administration **continues to set** an expansive precedent **that is damaging to the international rule of law**.

Obama’s new policy on drones

It is against this background that Obama’s recent counterterrorism speech and the policy directive he announced at the same time should be understood. On the subject of remotely piloted aircraft and targeted killing, there were two key aspects to his intervention. First, he suggested that the military element in US counterterrorism may be scaled back further in the coming months, and that he envisages a time in the not-too-distant future when the fight against the al-Qaeda network will no longer qualify as an armed conflict. He said that “the core of al Qaeda in Afghanistan and Pakistan is on the path to defeat” and that while al-Qaeda franchises and other terrorists continued to plot against the US, “the scale of this threat closely resembles the types of attacks we faced before 9/11”.29 Obama promised that he would not sign legislation that expanded the mandate of the AUMF, and proclaimed that the United States’ “systematic effort to dismantle terrorist organizations must continue […] but this war, like all wars, must end”. The tone of Obama’s speech contrasted strongly with that of US **military officials** who testified before the Senate Committee on Armed Services the week before; Michael Sheehan, the Assistant Secretary of Defence for Special Operations and Low-Intensity Conflict, **said** then that **the end of the armed conflict was “a long way off**” and appeared to say that **it might continue for 10 to 20 years**.30

Second, the day before his speech, **Obama set out regulations** for drone strikes that appeared to restrict them beyond previous commitments (the guidance remains classified but a summary has been released). The guidance set out standards and procedures for drone strikes “that are either already in place or will be transitioned into place over time”.31 **Outside areas of active hostilities, lethal force will only be used “when capture is not feasible and no other reasonable alternatives exist to address the threat effectively”. It will only be used against a target “that poses a continuing, imminent threat to US persons”. And there must be “near certainty that non-combatants will not be injured or killed**”.

In some respects, these standards remain unclear: the president did not specify how quickly they would be implemented, or how “areas of active hostilities” should be understood. Nevertheless, **taken at face value,** they **seem to** represent a meaningful change**, at least on a conceptual level**. Effectively, they bring the criteria for all targeted strikes into line with the standards that the administration had previously determined to apply to US citizens. **Where the administration had previously said on occasions that it focused in practice on those people who pose the greatest threat,** this is **now formalised as** official policy. In this way, the standards are **significantly** more restrictive than the limits that the laws of armed conflict set for killing in wartime, and represent a shift towards a threat-based rather than status-based approach. **In effect, the new policy endorses a self-defence standard as the de facto basis for US drone strikes**, even if the continuing level of attacks would strike most Europeans as far above what a genuine self-defence analysis would permit.32 The new standards would seem to prohibit signature strikes in countries such as Yemen and Somalia and confine them to Pakistan, where militant activity could be seen as posing a cross-border threat to US troops in Afghanistan. According to news reports, signature strikes will continue in the Pakistani tribal areas for the time being.33

However, the impact of the new policy will depend very much on how the concept of a continuing, imminent threat is interpreted. The administration has not given any definition of this phrase, and the leaked Department of Justice white paper contained a strikingly broad interpretation of imminence; among other points, the white paper said that it “does not require the United States to have clear evidence that a specific attack on US persons or interests will take place in the immediate future” and that it “must incorporate considerations of the relevant window of opportunity, the possibility of reducing collateral damage to civilians, and the likelihood of heading off future disastrous attacks on Americans”.34 The presidential policy guidance captures the apparent concerns behind the administration’s policy more honestly by including the criterion of continuing threat, but this begs the question of how the notions of a “continuing” and “imminent” threat relate to each other. Even since Obama’s speech, the US is reported to have carried out four drone strikes (two in Pakistan and two in Yemen) killing between 18 and 21 people – suggesting that the level of attacks is hardly diminishing **under the new guidelines**.35

It is also notable that the new standards **announced by Obama** represent a policy decision **by the US** rather than **a** revised **interpretation of its** legal obligations. In his speech, **Obama drew a distinction between legality and morality**, pointing out that “to say a military tactic is legal, or even effective, is not to say it is wise or moral in every instance”. The suggestion was that the US was scaling back its use of drones out of practical or normative considerations, not because of any new conviction that the its previous legal claims went too far. The **background** assertion that the US **is engaged in an armed conflict with al-Qaeda and associated forces, and** might **therefore** lawfully kill any member **of the opposing forces** wherever they were found, remains in place **to serve** as a precedent **for other states that wish to claim it**.

Limiting the use of force as a first resort is critical to sustainable consensus-building on targeted killing standards

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

Legal scholars, policymakers, and state actors are embroiled in a heated debate about whether the conflict with al Qaeda is concentrated within specific geographic boundaries or extends to wherever al Qaeda members and associated forces may go. The United States' expansive view of the conflict, coupled with its broad definition of the enemy, has led to a legitimate concern about the creep of war. Conversely, the European and human rights view, which confines the conflict to a limited geographic region, ignores the potentially global nature of the threat and unduly constrains the state's ability to respond. Neither the law of international armed conflict (governing conflicts between states) nor the law of noninternational armed conflict (traditionally understood to govern intrastate conflicts) provides the answers that are so desperately needed.

The zone approach proposed by this Article fills the international law gap, effectively mediating the multifaceted liberty and security interests at stake. It recognizes the broad sweep of the conflict, but distinguishes between zones of active hostilities and other areas in determining which rules apply. **Specifically, it offers a set of standards that would both limit and legitimize the use of out-of-battlefield targeted killings** and law of war-based detentions, subjecting their use to an individualized threat assessment, a least-harmful-means test, and significant procedural safeguards. **This approach confines the use of out-of-battlefield targeted killings** and detention without charge to extraordinary situations in which the security of the state so demands. It thus limits the use of force as a first resort, protects against the unnecessary erosion of peacetime norms and institutions, and safeguards individual liberty. At the same time, the zone approach ensures that the state can effectively respond to grave threats to its security, wherever those threats are based.

The United States has already adopted a number of policies that distinguish between zones of active hostilities and elsewhere, implicitly recognizing the importance of this distinction. **By adopting the** proposed **framework as a matter of law, the U**nited **S**tates **can begin to set the standards and build an international consensus as to the rules that ought to apply, not only to this conflict, but to future conflicts**. The likely reputational, security, and foreign policy gains make acceptance of this framework a worthy endeavor.

This is current administration policy, it just needs to be formalized

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

One might be skeptical that a nation like the United States would ever accept such constraints on the exercise of its authority. There are, however, several reasons why doing so would be in the United States' best interest.

First, as described in Section II.B, **the** general **framework is** largely **consistent with current U.S. practice since 2006**. The United States has, as a matter of policy, adopted important limits on its use of out-of-battlefield targeting and law-of-war detention suggesting an implicit recognition of the value and benefits of restraint.

Second, while the proposed substantive and procedural safeguards are more stringent than those that are currently being employed, their implementation will lead to increased restraint and enhanced legitimacy, which in turn inure to the state. As the U.S. Counterinsurgency Manual explains, it is impossible and self-defeating to attempt to capture or kill every potential insurgent: "Dynamic insurgencies can replace losses quickly. Skillful counterinsurgents must thus cut off the sources of that recuperative power" by increasing their own legitimacy at the expense of the insurgent's legitimacy. n215 The Counterinsurgency Manual further notes, "Excessive use of force, unlawful detention ... and punishment without trial" comprise "illegitimate actions" that are ultimately "self-defeating." n216 In this vein, the Manual advocates moving "from combat operations to law enforcement as [\*1232] quickly as feasible." n217 **In other words, the high profile and controversial nature of killings outside conflict zones** and detention without charge **can work to the advantage of terrorist groups** and to the detriment of the state. **Self-imposed limits on** the use of detention without charge and **targeted killing** can **yield legitimacy and security benefits**. n218

Third, limiting the exercise of these authorities outside zones of active hostilities better accommodates the demands of European allies, upon whose support the United States relies. As Brennan has emphasized: "**The convergence of our** legal views **with those of our international partners matters**. The effectiveness of our counterterrorism activities depends on the assistance and cooperation of our allies who, in ways public and private, take great risks to aid us in this fight." n219 By placing self-imposed limits on its actions outside the "hot" battlefield, the United States will be in a better position to participate in the development of an international consensus as to the rules that ought to apply.

Fourth, such self-imposed restrictions are more consistent with the United States' long-standing role as a champion of human rights and the rule of law a role that becomes difficult for the United States to play when viewed as supporting broad-based law-of-war authority that gives it wide latitude to employ force as a first resort and bypass otherwise applicable human rights and domestic law enforcement norms.

Fifth, **and critically, while the U**nited **S**tates **might be confident that it will exercise its authorities responsibly, it cannot assure that other states will follow suit**. What is to prevent Russia, for example, from asserting that [\*1233] it is engaged in an armed conflict with Chechen rebels, and can, consistent with the law of war, kill or detain any person anywhere in the world which it deems to be a "functional member" of that rebel group? Or Turkey from doing so with respect to alleged "functional members" of Kurdish rebel groups? If such a theory ultimately resulted in the targeted killing or detaining without charge of an American citizen, the United States would have few principled grounds for objecting.

## 2AC

### circumvention

The plan is goldilocks – we solve our allies adv regardless of compliance

Byman ’13 [Daniel L. Byman, Research Director, Saban Center for Middle East Policy | Senior Fellow, Foreign Policy, Saban Center for Middle East Policy, He is also a professor at Georgetown University's Security Studies Program. He served as a staff member on the 9/11 Commission and worked for the U.S. government, 10/10/13, Brookings Institute, “Captures vs. Drones,” http://www.brookings.edu/blogs/up-front/posts/2013/10/10-al-libi-capture-byman, accessed 10/10/13]

Arrests and the legal system also offer more legitimacy, particularly with Western allies. **The legality of U.S. drone strikes outside recognized war zones** and against targets only loosely associated with the Al Qaeda core and the 9/11 attacks, **even if they are clearly terrorists, is hotly debated.** The U.S. drone and targeted killing program are widely criticized as counterproductive and barbaric, with allies rejecting the war paradigm the United States uses to justify these attacks. Capture is deemed more civilized, particularly when – as seems the case with al-Libi – it is followed by a trial in a civilian court. In theory at least, such legitimacy makes allies more willing to support U.S. policies in general.

Yet the costs and limits of capture operations are also painfully clear. Most important, capture operations are much harder. To insert U.S. forces into another country, and to be sure they can be supported if they encounter problems or need to be extracted unexpectedly, requires far more military support than just the insert SEAL or Delta Force team. In contrast, a drone strike, like a military capture operation, requires excellent intelligence, but if the drone encounters problems it simply flies away – and even if it is shot down no Americans die.

In addition, capture operations are more likely to fail. No one doubts the bravery or professionalism of the team that tried to capture Ikrimah, but they came up empty-handed, in part because they encountered more civilians than they expected. A drone flying overhead could have provided continuous surveillance and, had there been a moment when civilians were not near Ikrimah, struck with deadly effect.

In some cases, captures are simply not feasible without taking absurd risks. In remote parts of Pakistan’s FATA, inserting and extracting a special operations force team to capture a suspected terrorist would be exceptionally difficult in most cases. The terrorists are on the lookout for enemies, and U.S. forces could not blend in to a supportive population or move quickly before the enemy could respond. A hail of gunfire, not shocked immobility, would be the likely response.

Not only could U.S. forces be killed, they might also be wounded and captured. This would make the raid a political disaster, with the terrorist group demanding the release of other prisoners and otherwise using the captive to extract concessions.

Somewhat surprisingly, the presence of boots on the ground can be perceived as more of a violation of sovereignty than a drone strike. It was the Bin Ladin raid that caused the most outrage in Pakistan – far more than any drone strike. Already Libya’s government condemned the al-Libi capture and threatened to remove the prime minister if he approved it.

Many of those targeted by U.S. intelligence could not be tried in a U.S. court. There is no indictment against them, evidence is confined to intelligence challenges, or the threat they pose is primarily to U.S. allies. In such cases the United States may want to capture the individual and pass him to an ally, but in so doing the United States becomes implicated in the ally’s treatment of the suspect, a troubling association if the ally is a dictatorship like Algeria or Egypt.

Making this problem much worse, U.S. detention policy is a failure. Obama and other liberals roundly reject continuing Guantanamo, but no policy has emerged to take its place. So what is to be done with captured terrorists who cannot neatly be tried in the U.S. legal system?

Emphasizing capture operations more can help U.S. intelligence and it is good PR – but we can’t pretend that targeted killings will become a thing of the past. Capture is often infeasible or too risky, and policymakers will turn to drone strikes or other lethal approaches instead. So rather that see this weekend’s raids as a shift in the U.S. approach, we should consider it a broadening – increasing the role of capture operations, but not abandoning killing operations altogether.

Zones aren’t ambiguous

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

This Article has assumed the existence of one or more zones of active hostilities, involving either a large-scale military presence or consistent aerial attacks. But what happens when no such center of gravity exists? Professor Anne-Marie Slaughter predicts that future conflicts are unlikely to resemble those in Afghanistan and Iraq, which involved the large-scale ground invasion of one state by others. n204 Rather, they are more likely to involve targeted operations conducted by special forces and intelligence operatives without any active zone of hostilities. n205 In fact, this description may fit the situation in Afghanistan once the United States and NATO remove their troops. n206

Such a situation raises two distinct questions: First, can there be an armed conflict without a zone of active hostilities? Second, if so, what rules apply? Answering the first question depends on a fact-intensive analysis of [\*1229] the nature of the conflict, applying the factors laid out in Tadic. n207 Is the fighting of sufficient intensity and duration to qualify as an armed conflict? Is there an organized group that the belligerent state is fighting? This Article is based on the premise that once these threshold requirements are met, the conflict extends to where the belligerent parties operate, **but that the rules for targeting** and detention **vary depending on whether one is acting within a zone of active hostilities**. Similarly, if a single organization engages in sustained and intense attacks against an opposing state, an armed conflict may exist, even if the attacks emanate from multiple locations and lack a central zone of activity. That said, there would need to be strong and convincing evidence to establish that ongoing attacks and threat of attack emanated from a single organization and were of sufficient intensity and duration to justify the assertion of an armed conflict. n208 In such a situation, the more restrictive substantive and procedural standards would apply throughout the entire conflict.

Ambiguity is not the same thing as zero standards – Obama won’t just start a war just to create a zone

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

Linking the zone of active hostilities primarily to the duration and intensity of the fighting and to states' own proclamations suffers, however, from an inherent circularity. A state can itself create a zone of active hostilities by ratcheting up violence or issuing a declaration of intent, thereby making previously unlawful actions lawful.'•'''

It is impossible to fully address this concern. The problem can, however, be significantly reduced by insisting on strict compliance with the law-of war principles of distinction and proportionality and by vigorously punishing states for acts of aggression.'^^ There will, of course, be disagreement as to whether a state's escalation of a certain conflict constitutes aggression, particularly given underlying disagreements about who qualifies as a lawful target. The zone approach is helpful in this regard as well: it narrows the range of disagreement by demanding heightened substantive standards as to who qualifies as a legitimate target outside the zones of active hostilities. Under the zone approach, the escalation of force must be aimed at a narrower set of possible military targets until the increased use of force is sufficiently intense and pervasive enough to create a new zone of active hostilities.

### t – no c-in-c powers

We meet or they limit out the whole topic – Commander in Chief powers are the justification for TK

Marcy Wheeler 13, founder of EmptyWheel – a national security blog, PhD in comparative lit, The AUMF Fallacy, <http://www.emptywheel.net/2013/02/18/the-aumf-fallacy/>

And ultimately, we should look to what Stephen Preston — the General Counsel of the agency that actually carried out the Awlaki killing — has to say about where the CIA gets its authorization to engage in lethal covert operations.

Let’s start with the first box: **Authority to Act under U.S. Law**.

First, we would confirm that **the contemplated activity is authorized by the President in the exercise of his powers under Article II of the U.S. Constitution, for example, the President’s responsibility as Chief Executive and Commander-in-Chief to protect the country from an imminent threat of violent attack**. This would not be just a one-time check for legal authority at the outset. Our hypothetical program would be engineered so as to ensure that, through careful review and senior-level decision-making, each individual action is linked to the imminent threat justification.

“War powers authority” covers operations—

Oxford International Encyclopedia of Legal History 2012

(Oxford University Press via Oxford Reference, Georgetown University library)

**The War Power in the Twenty-First Century**.

The presumption of a dual war-making role appears to have been eclipsed since 2001, during which time it has been argued by some that the president stands supreme in his war-making capacity as **commander in chief** and that he has no obligation to share such power with Congress. This view assumes that the president has all the requisite and necessary **authority to order whatever he deems necessary in terms of military operations** and that Congress can claim only the power to declare war; the resulting operational conduct is strictly a presidential prerogative. Opponents of this interpretation point to all the additional powers dealing with the military that are vested in Congress.

No limits or ground DA –

“Restrictions” are on time, place, and manner – this includes geography

Lobel, professor of law at the University of Pittsburgh, 2008

(Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf)

Throughout American history, Congress has placed restrictions on the President’s power as Commander in Chief to conduct warfare. On numerous occasions, **Congress has authorized the President to conduct warfare but placed significant restrictions on the time**, **place and manner of warfare**. Congress has regulated the tactics the President could employ, the armed forces he could deploy, the geographical area in which those forces could be utilized, and the time period and specific purposes for which the President was authorized to use force. Its regulations have both swept broadly and set forth detailed instructions and procedures for the President to follow. This historical practice is consistent with the Constitution’s text and Framers’ intent, which made clear that the President was not to have the broad powers of the British King, but was subject to the control and oversight of Congress in the conduct of warfare.

### t – restrict

 “On” means there’s no limits disad

Dictionary.com, http://dictionary.reference.com/browse/on

On

preposition

1.so as to be or remain supported by or suspended from: Put your package down on the table; Hang your coat on the hook.

2.so as to be attached to or unified with: Hang the picture on the wall. Paste the label on the package.

### t – sig strikes

#### Their distinction that sig strikes are not “targeted” is factually incorrect—disproves their T arg and the impact

Anderson 13 (Kenneth Anderson is a professor of international law at American University and a member of the Task Force on National Security and Law at the Hoover Institution, June 2013, "The Case for Drones", https://www.commentarymagazine.com/articles/the-case-for-drones/)

It can be used for a different kind of targeting altogether: against groups of fighters with their weapons on trucks headed toward the Afghan border. But these so-called signature strikes are not, as sometimes represented, a relaxed form of targeted killing in which groups are crudely blown up because nothing is known about individual members. Intelligence assessments are made, including behavioral signatures such as organized groups of men carrying weapons, suggesting strongly that they are “hostile forces” (in the legal meaning of that term in the U.S. military’s Standing Rules of Engagement). **That is the norm in conventional war**. Targeted killing of high-value terrorist targets, by contrast, is the end result of a **long**, **independent intelligence process**. What the drone adds to that intelligence might be considerable, through its surveillance capabilities—but much of the drone’s contribution will be tactical, providing intelligence that assists in the planning and execution of the strike itself, in order to pick the moment when there might be the fewest civilian casualties. Nonetheless, in conjunction with high-quality intelligence, **drone warfare offers an unparalleled means to strike directly at terrorist organizations** without needing a conventional or counterinsurgency approach to reach terrorist groups in their safe havens. It offers an offensive capability, rather than simply defensive measures, such as homeland security alone**. Drone warfare offers a raiding strategy directly against the terrorists and their leadership**.

#### Regardless of T questions, Obama executes signature strikes as targeted killing with the armed conflict—therefore, he would say the plan applies

Kevin Heller, Senior Lecturer, Melbourne Law School, 10/30/12, 'One Hell of a Killing Machine': Signature Strikes and International Law, papers.ssrn.com/sol3/papers.cfm?abstract\_id=2169089

The U.S. takes the position – discussed in the next section – that all of its targeted killings are part of ‘an armed conflict with al-Qaida, the Taliban, and associated forces’. That does not mean, however, that all of its signature strikes comply with IHL. As this section demonstrates, many of the signatures on which the U.S. relies are legally suspect.

A. Targeting Principles

The ICJ has described the principle of distinction as the ‘cardinal rule’ of IHL.22 It is articulated most clearly in Article 51(2) of the First Additional Protocol (AP I), which provides that ‘[t]he civilian population as such, as well as individual civilians, shall not be the object of attack’. The principle of distinction applies in both international and non-international armed conflicts.23

Insofar as signature strikes in Pakistan, Yemen, and Somalia are governed by IHL, they clearly take place in the context of non- international armed conflict (NIAC).24 In NIAC, two categories of individuals are targetable: members of organized armed groups and civilians who directly participate in hostilities (DPH).25 According to the ICRC, an individual qualifies as a member of an organized armed group only if he assumes a ‘continuous combat function’ (CCF) in it; any other form of affiliation does not qualify:

[M]embership must depend on whether the continuous function assumed by an individual corresponds to that collectively exercised by the group as a whole, namely the conduct of hostilities on behalf of a non-State party to the conflict. Consequently, under IHL, the decisive criterion for individual membership in an organized armed group is whether a person assumes a continuous function for the group involving his or her direct participation in hostilities.... Continuous combat function does not imply de jure entitlement to combatant privilege. Rather, it distinguishes members of the organized fighting forces of a non-State party from civilians who directly participate in hostilities on a merely spontaneous, sporadic, or unorganized basis, or who assume exclusively political, administrative or other non-combat functions.26

#### That means he complies—won’t shift to self-defense

Beau Barnes, J.D., Boston University School of Law, Spring 2012, REAUTHORIZING THE “WAR ON TERROR”: THE LEGAL AND POLICY IMPLICATIONS OF THE AUMF’S COMING OBSOLESCENCE, https://www.jagcnet.army.mil/DOCLIBS/MILITARYLAWREVIEW.NSF/20a66345129fe3d885256e5b00571830/b7396120928e9d5e85257a700042abb5/$FILE/By%20Beau%20D.%20Barnes.pdf

Unsurprisingly, this article embraces an interpretation of the Constitution that is at odds with the Vesting Clause thesis, and instead hews closer to the view expressed in Justice Robert Jackson’s concurrence in the 1952 Steel Seizure case.13 The Constitution explicitly empowers Congress in the area of foreign affairs to, among other actions, approve treaties,14 declare war,15 and regulate the armed forces.16 These textual grants of authority would be vitiated if Congress were unable, in the exercise of these powers, to “wage a limited war; limited in place, in objects, and in time.”17 A full exposition of this oft-addressed topic is beyond the scope of this article, however, and it suffices for present purposes to merely align it with the overwhelming majority of scholars who conceive of a Constitution where Congress may authorize limited military force in a manner which is binding on the Executive Branch.18

Furthermore, the Vesting Clause thesis and all-powerful views of the Commander in Chief Clause have been rejected in large part by the judiciary and the current administration.20 Indeed, **one significant reason for considering the AUMF to be an actual limit on Presidential power, and a relevant subject for legal analysis, is because that is how the Obama Administration understands the statute**. State Department Legal Adviser Harold Koh, in his March 25, 2010, speech to the American Society of International Law, clarified that “as a matter of domestic law” the Obama Administration relies on the AUMF for its authority to detain and use force against terrorist organizations.21 Furthermore, Koh specifically disclaimed the previous administration’s reliance on an expansive reading of the Constitution’s Commander in Chief Clause.22 Roughly stated, the AUMF matters, at least in part, because the Obama Administration says it matters.

The scope of the AUMF is also important for any future judicial opinion that might rely in part on Justice Jackson’s Steel Seizure concurrence.23 Support from Congress places the President’s actions in Jackson’s first zone, where executive power is at its zenith, because it “includes all that he possesses in his own right plus all that Congress can delegate.”24 Express or implied congressional disapproval, discernible by identifying the outer limits of the AUMF’s authorization, would place the President’s “power . . . at its lowest ebb.”25 In this third zone, executive claims “must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system.”26 Indeed, Jackson specifically rejected an overly powerful executive, observing that the Framers did not intend to fashion the President into an American monarch.27

Jackson’s concurrence has become the most significant guidepost in debates over the constitutionality of executive action in the realm of national security and foreign relations.28 Indeed, some have argued that it was given “the status of law”29 by then-Associate Justice William Rehnquist in Dames & Moore v. Regan.30 Speaking for the Court, Rehnquist applied Jackson’s tripartite framework to an executive order settling pending U.S. claims against Iran, noting that “[t]he parties and the lower courts . . . have all agreed that much relevant analysis is contained in [Youngstown].”31 More recently, Chief Justice John Roberts declared that “Justice Jackson’s familiar tripartite scheme provides the accepted framework for evaluating executive action in [the area of foreign relations law].”32 Should a future court adjudicate the nature or extent of the President’s authority to engage in military actions against terrorists, an applicable statute would confer upon such executive action “the strongest of presumptions and the widest latitude of judicial interpretation.”33 The AUMF therefore exercises a profound legal influence on the future of the United States’ struggle against terrorism, and its precise scope, authorization, and continuing vitality matter a great deal.

### transparency

Transparency fails

Sarah Knuckey, NYU Law School Project on Extrajudicial Executions Director, Special Advisor to the UN Special Rapporteur on extrajudicial executions, 10/1/13, Transparency on Targeted Killings: Promises Made, but Little Progress, justsecurity.org/2013/10/01/transparency-targeted-killings-promises-made-progress/

Some interpreted these efforts and the President’s speech to mark the beginning of improved transparency. But despite transparency promises and expectations, many of **the same, core concerns regarding undue secrecy remain**. The President’s speech, the Policy Guidance, and Holder’s letter – because of textual ambiguities within each, and combined with events since – have largely failed to address these longstanding concerns, **and in** some **important respects aggravated them.**

Continuing Secrecy on Core Issues

Key areas in which transparency has not yet been forthcoming include:

 Who can be killed, where, and on what basis. Demands for legal and policy information on who and when the US believes it can kill have long been at the center of calls for more transparency. Senior US officials, before 2013, delivered important speeches outlining the government’s views on the applicable legal frameworks for targeting. But the speeches lacked detail, and left crucial legal questions unanswered. Legal concepts key to understanding the scope of US targeting – like “imminence,” “associated forces,” and “directly participating in hostilities” – remain unclear (see this and this). The relevant legal memos have still not been published, even in redacted form. In addition, although President Obama’s speech and the published Policy Guidance set out strict rules for the use of force – stricter, in numerous respects, than the laws of war – they are not legally binding, and we do not know when they began to apply, or when the strict policy limits on killing may be relaxed (and if we will ever be told when they are). And, crucially, **we don’t know where the new guidelines actually apply** (original assumptions by many outside government that they applied in Pakistan were later called into question). Since Obama’s May 2013 speech, **confusion** about who can be targeted **has** at times **increased** (e.g. a “senior American official” stated in August that a security threat had “expanded the scope” of who could be targeted in Yemen).

Congressional restriction key to credibility and signal

Kenneth Anderson, Professor of Law, Washington College of Law, American University, and Research Fellow, The Hoover Institution, Stanford University and Member of its Task Force on National Security and the Law, 5/11/2009, Targeted Killing in U.S. Counterterrorism Strategy and Law, http://www.brookings.edu/~/media/research/files/papers/2009/5/11%20counterterrorism%20anderson/0511\_counterterrorism\_anderson.pdf

What Should Congress Do?

Does this analysis offer any practical policy prescriptions for Congress and the administration? The problem is not so much a need for new legislation to create new structures or new policies. The legislative category in which many instances of targeted killing might take place in the future already exists. The task for Congress and the administration, rather, is instead to preserve a category that is likely to be put under pressure in the future and, indeed, is already seen by many as a legal non-starter under international law.

Before addressing what Congress should do in this regard, we might ask from a strictly strategic political standpoint whether, given that the Obama Administration is committed to this policy anyway, whether it is politically prudent to draw public attention to the issue at all. Israeli officials might be threatened with legal action in Spain; but so far no important actor has shown an appetite for taking on the Obama Administration. Perhaps it is better to let sleeping political dogs lie.

These questions require difficult political calculations. However, the sources cited above suggest that even if no one is quite prepared at this moment to take on the Obama Administration on targeted killing, the intellectual and legal pieces of the challenge are already set up and on the table. Having asserted certain positions concerning human rights law and its application and the United States having unthinkingly abandoned its self-defense rationale for its policy, the play can be made at any time—at some later time in the Obama Administration or in the next Republican administration, prying apart the “American” position to create a de facto alliance among Democrats **and Europeans and thereby undermining the ability of the United States to craft a unified American security strateg**y.101 **The U**nited **S**tates **would be best served if the Obama Administration did that exceedingly rare thing in international law and diplomacy: Getting the U**nited **S**tates **out in front of the issue by making plain the American position**, **rather than merely reacting** in surprise when its sovereign prerogatives are challenged by the international soft-law community.

The deeper issue here is not merely a strategic and political one about targeted killing and drones but goes to the very grave policy question of whether it is time to move beyond the careful ambiguity of the CIA’s authorizing statute in referring to covert uses of force under the doctrines of vital national interest and self-defense. Is it time to abandon strategic ambiguity with regards to the Fifth Function and assert the right to use force in self-defense and yet in “peacetime”—that is, outside of the specific context of an armed conflict within the meaning of international humanitarian law? Quite possibly, the strategic ambiguity, in a world in which secrecy is more and more difficult, and in the general fragmentation of voice and ownership of international law, has lost its raison d’etre. This is a larger question than the one undertaken here, but on a range of issues including covert action, interrogation techniques, detention policy, and others, **a general approach of overt legislation that removes ambiguity is to be preferred**.

**The single most important role for Congress to play** in addressing targeted killings, **therefore, is the open, unapologetic, plain insistence that the American understanding of international law on this issue of self-defense is legitimate**. The assertion, that is, that the United States sees its conduct as permissible for itself and for others. **And it is the** putting of congressional strength behind the official statements of the executive branch as the opinio juris of the United States, **its authoritative view of what international law is on this subject**. If this statement seems peculiar, that is because the task—as fundamental as it is—remains unfortunately poorly understood.

Yet if it is really a matter of political consensus between Left and Right that targeted killing is a tool of choice for the United States in confronting its non-state enemies, then this **is an essential task for Congress to play in support of** the **Obama** Administration **as it seeks to** speak with a single voice **for the United States** to the rest of the world. The Congress needs to backstop the administration in asserting to the rest of the world— including to its own judiciary—how the United States understands international law regarding targeted killing. And it needs to make an unapologetic assertion that its views, while not dispositive or binding on others, carry international authority to an extent that relatively few others do—even in our emerging multi-polar world. International law traditionally, after all, accepts that states with particular interests, power, and impact in the world, carry more weight in particular matters than other states. The American view of maritime law matters more than does landlocked Bolivia’s. American views on international security law, as the core global provider of security, matter more than do those of Argentina, Germany or, for that matter, NGOs or academic commentators. But it has to speak—and speak loudly—if it wishes to be heard. It is an enormously important instance of the need for the United States to re-take “ownership” of international law— not as its arbiter, nor as the superpower alone, but as a very powerful, very important, and very legitimate sovereign state.

Intellectually, **continuing to squeeze** all forms and instances of targeted killing **by standoff platform** under the law of IHL armed conflict **is** probably **not** the most analytically **compelling** way to proceed. **It is certainly not a practical long-term approach.** Not everyone who is an intuitively legitimate target from the standpoint of self-defense or vital national security, after all, will be already part of an armed conflict or combatant in the strict IHL sense. Requiring that we use such IHL concepts for a quite different category is likely to have the deleterious effect of deforming the laws of war, over the long term—**starting**, for example, **with the idea of a “global war**,” which **is** itself **a** certain **deformation of** the IHL **concept of hostilities** and armed conflict.

### xo

No one trusts the CP

Mark David Maxwell, Colonel, Judge Advocate with the U.S. Army, Winter 2012, TARGETED KILLING, THE LAW, AND TERRORISTS, Joint Force Quarterly, http://www.ndu.edu/press/targeted-killing.html

The weakness of this theory is that it is not codified in U.S. law; it is merely the extrapolation of international theorists and organizations. The only entity **under the Constitution that can frame and settle Presidential power** regarding the enforcement of international norms **is Congress**. As the check on executive power, Congress must amend the AUMF to give the executive a statutory roadmap that articulates when force is appropriate and under what circumstances the President can use targeted killing. **This would be the** needed endorsement from Congress, the other political branch of government, **to clarify the U.S. position on its use of force regarding targeted killing**. For example, it would spell out the limits of American lethality once an individual takes the status of being a member of an organized group. Additionally, statutory clarification will give other states a roadmap for the contours of what constitutes anticipatory self-defense and the proper conduct of the military under the law of war.

Congress should also require that the President brief it on the decision matrix of articulated guidelines before a targeted killing mission is ordered. As Kenneth Anderson notes, “[t]he point about briefings to Congress is partly to allow it to exercise its democratic role as the people’s representative.”74

The desire to feel safe is understandable. The consumers who buy SUVs are not buying them to be less safe. Likewise, the champions of targeted killings want the feeling of safety achieved by the elimination of those who would do the United States harm. But allowing the President to order targeted killing without congressional limits means the President can manipulate force in the name of national security without tethering it to the law advanced by international norms. The potential consequence of such unilateral executive action is that it gives other states, such as North Korea and Iran, the customary precedent to do the same. Targeted killing might be required in certain circumstances, but if the guidelines are debated and understood, the decision can be executed with the full faith of the people’s representative, Congress. **When the decision is made without Congress, the result might make the U**nited **S**tates **feel safer, but the process eschews what gives a state its greatest safety: the rule of law**.

Zero chance of Congressional follow-on AND CP links to politics

Kevin Drum, Mother Jones, 4/22/13, Maureen Dowd and Presidential Leverage, www.motherjones.com/kevin-drum/2013/04/maureen-dowd-and-presidential-leverage

Finally, there's the most obvious change of all: **the decision by Republicans to stonewall every single Obama initiative from day one**. By now, I assume that even conservative apologists have given up pretending that this isn't true. **The evidence is overwhelming**, and **it's applied to** practically **every single thing Obama has done** in the domestic sphere. The only question, ever, is whether Obama will get two or three Republican votes vs. three or four. If the latter, he has a chance to win. But those two or three extra votes don't depend on leverage. In fact, Obama's leverage is negative. The last thing any Republican can afford these days is to be viewed as caving in to Obama. That's a kiss of death with the party's base.

2nd resort strikes are enough

Jennifer Daskal, Fellow and Adjunct Professor, Georgetown Center on National Security and the Law, Georgetown University Law Center, April 2013, ARTICLE: THE GEOGRAPHY OF THE BATTLEFIELD: A FRAMEWORK FOR DETENTION AND TARGETING OUTSIDE THE "HOT" CONFLICT ZONE, 161 U. Pa. L. Rev. 1165

Some likely will object that such an official designation would recreate the same safe havens that this proposal seeks to avoid. But a critical difference exists **between a territorially restricted framework that** effectively **prohibits reliance on law-of-war tools outside of specific zones of active hostilities and a zone approach that merely imposes heightened procedural and substantive standards on the use of such tools**. Under the zone approach, the non-state enemy is not free from attack or capture; rather, the belligerent state simply must take greater care to ensure that the target meets the enhanced criteria described in Section III.B.

#### No impact – every actor has incentives to overstate consequences

**Farley 11**, assistant professor at the Patterson School of Diplomacy and International Commerce at the University of Kentucky, (Robert, "Over the Horizon: Iran and the Nuclear Paradox," 11-16, [www.worldpoliticsreview.com/articles/10679/over-the-horizon-iran-and-the-nuclear-paradox](http://www.worldpoliticsreview.com/articles/10679/over-the-horizon-iran-and-the-nuclear-paradox))

But states and policymakers habitually overestimate the impact of nuclear weapons. This happens among both proliferators and anti-proliferators. Would-be proliferators seem to expect that possessing a nuclear weapon will confer “a seat at the table” as well as solve a host of minor and major foreign policy problems. Existing nuclear powers fear that new entrants will act unpredictably, destabilize regions and throw existing diplomatic arrangements into flux. These predictions almost invariably turn out wrong; nuclear weapons consistently fail to undo the existing power relationships of the international system.

The North Korean example is instructive. In spite of the dire warnings about the dangers of a North Korean nuclear weapon, the region has weathered Pyongyang’s nuclear proliferation in altogether sound fashion. Though some might argue that nukes have “enabled” North Korea to engage in a variety of bad behaviors, that was already the case prior to its nuclear test. The crucial deterrent to U.S. or South Korean action continues to be North Korea’s conventional capabilities, as well as the incalculable costs of governing North Korea after a war. Moreover, despite the usual dire predictions of nonproliferation professionals, the North Korean nuclear program has yet to inspire Tokyo or Seoul to follow suit. The DPRK’s program represents a tremendous waste of resources and human capital for a poor state, and it may prove a problem if North Korea endures a messy collapse. Thus far, however, the effects of the arsenal have been minimal.

Israel represents another case in which the benefits of nuclear weapons remain unclear. Although Israel adopted a policy of ambiguity about its nuclear program, most in the region understood that Israel possessed nuclear weapons by the late-1960s. These weapons did not deter Syria or Egypt from launching a large-scale conventional assault in 1973, however. Nor did they help the Israeli Defense Force compel acquiescence in Lebanon in 1982 or 2006. Nuclear weapons have not resolved the Palestinian question, and when it came to removing the Saddam Hussein regime in Iraq, Israel relied not on its nuclear arsenal but on the United States to do so -- through conventional means -- in 2003. Israeli nukes have thus far failed to intimidate the Iranians into freezing their nuclear program. Moreover, Israel has pursued a defense policy designed around the goal of maintaining superiority at every level of military escalation, from asymmetrical anti-terror efforts to high-intensity conventional combat. Thus, it is unclear whether the nuclear program has even saved Israel any money.

The problem with nukes is that there are strong material and normative pressures against their use, not least because states that use nukes risk incurring nuclear retaliation. Part of the appeal of nuclear weapons is their bluntness, but for foreign policy objectives requiring a scalpel rather than a sledgehammer, they are useless. As a result, states with nuclear neighbors quickly find that they can engage in all manner of harassment and escalation without risking nuclear retaliation. The weapons themselves are often more expensive than the foreign policy objectives that they would be used to attain. Moreover, normative pressures do matter. Even “outlaw” nations recognize that the world views the use of nuclear -- not to mention chemical or biological -- weapons differently than other expressions of force. And almost without exception, even outlaw nations require the goodwill of at least some segments of the international community.

Given all this, it is not at all surprising that many countries eschew nuclear programs, even when they could easily attain nuclear status. Setting aside the legal problems, nuclear programs tend to be expensive, and they provide relatively little in terms of foreign policy return on investment. Brazil, for example, does not need nuclear weapons to exercise influence in Latin America or deter its rivals. Turkey, like Germany, Japan and South Korea, decided a long time ago that the nuclear “problem” could be solved most efficiently through alignment with an existing nuclear power.

Why do policymakers, analysts and journalists so consistently overrate the importance of nuclear weapons? The answer is that everyone has a strong incentive to lie about their importance. The Iranians will lie to the world about the extent of their program and to their people about the fruits of going nuclear. The various U.S. client states in the region will lie to Washington about how terrified they are of a nuclear Iran, warning of the need for “strategic re-evaluation,” while also using the Iranian menace as an excuse for brutality against their own populations. Nonproliferation advocates will lie about the terrors of unrestrained proliferation because they do not want anyone to shift focus to the manageability of a post-nuclear Iran. The United States will lie to everyone in order to reassure its clients and maintain the cohesion of the anti-Iran block.

None of these lies are particularly dishonorable; they represent the normal course of diplomacy. But they are lies nevertheless, and serious analysts of foreign policy and international relations need to be wary of them.

Nonproliferation is a good idea, if only because states should not waste tremendous resources on weapons of limited utility. Nuclear weapons also represent a genuine risk of accidents, especially for states that have not yet developed appropriately robust security precautions. Instability and collapse in nuclear states has been harrowing in the past and will undoubtedly be harrowing in the future. All of these threats should be taken seriously by policymakers. Unfortunately, as long as deception remains the rule in the practice of nuclear diplomacy, exaggerated alarmism will substitute for a realistic appraisal of the policy landscape.

### at: econ impact

#### Decline doesn’t cause war

Morris Miller, Professor of Administration @ the University of Ottawa, ‘2K

(Interdisciplinary Science Review, v 25 n4 2000 p ingenta connect)

The question may be reformulated. Do wars spring from a popular reaction to a sudden economic crisis that exacerbates poverty and growing disparities in wealth and incomes? Perhaps one could argue, as some scholars do, that it is some dramatic event or sequence of such events leading to the exacerbation of poverty that, in turn, leads to this deplorable denouement. This exogenous factor might act as a catalyst for a violent reaction on the part of the people or on the part of the political leadership who would then possibly be tempted to seek a diversion by finding or, if need be, fabricating an enemy and setting in train the process leading to war. According to a study under- taken by Minxin Pei and Ariel Adesnik of the Carnegie Endowment for International Peace, there would not appear to be any merit in this hypothesis. After studying ninety-three episodes of economic crisis in twenty-two countries in Latin America and Asia in the years since the Second World War they concluded that:19 Much of the conventional wisdom about the political impact of economic crises may be wrong ... The severity of economic crisis – as measured in terms of inflation and negative growth – bore no relationship to the collapse of regimes ... (or, in democratic states, rarely) to an outbreak of violence ... In the cases of dictatorships and semi-democracies, the ruling elites responded to crises by increasing repression (thereby using one form of violence to abort another).

Global economy roaring back now – best new data – survey of 1600 senior executives from today

Associated Press 10/28/2013

(complete article, “As confidence grows in global economy, survey sees pick-up in M&A over the coming year,” <http://www.washingtonpost.com/business/amid-growing-confidence-in-global-economy-survey-expects-pick-up-in-manda-over-the-coming-year/2013/10/27/9e8ce4b2-3f64-11e3-b028-de922d7a3f47_print.html>)

LONDON — Growing optimism over the global economy is likely to lead to a marked pick-up in the number of mergers and acquisitions over the coming months, a survey of executives found Monday.

In its half-yearly report into the M&A sector, consulting firm Ernst & Young said it expects both the volume and size of deals to improve over the coming year, with 35 percent of companies surveyed likely to pursue acquisitions compared with just 25 percent a year ago. The more favorable backdrop is attributed to growing optimism among executives.

“All of this is underpinned by growing confidence in a global economy on sounder footing — improving economic conditions in mature economies and more stabilization in the major emerging markets,” said Pip McCrostie, Ernst & Young’s global head of M&A.

Over the past few months, the sense of caution over the global economy has abated, particularly in Europe, where many countries have emerged, or are about to emerge, from recession. Fears of a Chinese slowdown have eased, while the U.S. is still expected to post solid growth rates despite the recent budget stalemate that brought the world’s largest economy to the brink of default.

The survey found that 65 percent of executives expect the global economy to improve over the coming year, up from just 22 percent a year ago.

One encouraging aspect of the survey is that companies are expected to use more debt and equity to finance deals as opposed to relying on cash. That suggests executives are more willing to take on risk.

Since the financial crisis that started in 2007-8 and the ensuing recession, many companies around the world pulled back on risky investments and sought to rebuild their finances. That involved paying down debts and rebuilding their cash positions. Potentially risky undertakings such as M&A fell out of vogue and deal volumes and values slid sharply.

“Companies have weathered a prolonged period of uncertainty during which time they strengthened their balance sheets,” said McCrostie. “Having warehoused cash for a number of years and with ready access to credit, leading corporates are in a strong financial position to do deals — they now have more confidence to pull the trigger.”

The survey comes amid signs of a pick-up in the M&A market, which could be a boon to stock markets as well as the many advisers and facilitors involved in such deals.

The most notable recent deal was Vodafone’s sale of its 45 percent stake in Verizon Wireless to Verizon, for $130 billion, which should be completed next year. And only last week, San Francisco-based pharmaceutical wholesaler McKesson announced an agreed takeover of Celesio in a deal that values the German company at $8.3 billion.

Ernst & Young found that the top 5 destinations for would-be deal-makers are China, India, Brazil, the U.S. and Canada. Sectors expected to see the highest level of deals are life sciences, oil & gas, automotive, consumer products, automotive and technology.

The survey was based on interviews with 1,600 senior executives from large companies around the world and across industry sectors.

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Their impact assumes immigrants buy first homes – but rich refinancers are pricing them out of the market –

and financial crisis disproves the impact

and Fed tapering and mortgage wind-down overwhelms

Tso, CNBC, 10/8/2013

(Karen, “CNBC Comment: Fresh concerns for America’s housing market,” http://www.cityam.com/article/1381189076/cnbc-comment-fresh-concerns-america-s-housing-market#sthash.mUWWc4WN.dpuf)

BEN Bernanke and the US Federal Reserve have done all that mere mortals can do to repair the **housing market post-financial crisis**, but despite tarting up the mortgage industry like Cinderella for the ball, buyers are not jumping into the golden carriage to attend the best party ever staged.

**How can this be**, **when house prices are** supposedly **climbing** across the States**?** The latest Case-Shiller Index was up more than 12 per cent over the past year. The devil is in the detail – the most recent month-on-month increase slowed to just 0.6 per cent, and it is who is buying that is relevant.

Those who can afford to upgrade or buy a second home are doing so, with private equity and hedge funds bolstering transactions. But the average American is still cleaning up their balance sheet, using cheaper 30-year fixed mortgages to refinance. Insiders say the balance between those taking out mortgages in the purchase money market to buy properties versus refinancing is far from healthy, with a skew to the latter.

**Others not on the property ladder are having hopes of home ownership dashed as interest rates and prices climb**. Many now hand over a regular rental cheque to the likes of Blackstone, the biggest owner of single family homes in the US.

Why is this important? Because it tells a tale of the struggle that the Fed is facing when it agonises over the data to decide when to begin tapering QE. The US government shutdown has created some distraction – and even stopped the data flow – but tapering remains the ultimate worry.

Unfortunately, both the Fed and the government want out of the mortgage market **at the same time**. The Fed wants to taper, and President Obama wants to wind down Fannie Mae and Freddie Mac, the mortgage finance companies taken over by the government a few years back. These entities, along with government agencies, guarantee 90 per cent of all mortgages, as US banks say they can’t make money from the low interest rate environment, and provide products like the very low rate 30-year fixed mortgage popular with homebuyers.

So interest rates have to rise sharply for the US to encourage private capital to take over from Fannie and Freddie. We also witnessed the money market race ahead and lift 30-year interest rates in a taper experiment when they expected QE to be wound down in September.

It is not a stretch to understand why Bernanke is worried about higher interest rates snuffing out the housing market – once the missing piston in the US economic recovery.

### immigration

Multiple other issues spillover to block Obama’s agenda

Peter Nichols, WSJ, 10/17/13, Obama's Agenda Faces Rocky Road, online.wsj.com/news/articles/SB10001424052702303680404579141472200495820

Yet as much as he wants to shift the focus to immigration and the farm bill, Mr. Obama will have trouble pulling it off. His administration is under pressure to fix the operational problems that have bedeviled the new health-care exchanges.

The next set of fiscal deadlines, and worries about the next round of the across-the-board spending cuts, scheduled to take effect in mid-January, are likely to overshadow other efforts. That leaves lawmakers with only a narrow window of time to tackle any remotely complex legislation before the 2014 midterm dynamics overtake Washington.

Messy internal GOP politics over the farm bill could also complicate lawmakers' efforts to reconcile the different measures passed by the House and Senate.

As for immigration, House Republicans have said they plan to consider piecemeal immigration bills, but so far not one has reached the House floor.

Rep. Raul Labrador (R., Idaho), a conservative who has urged Republicans to tackle immigration changes, said Wednesday the budget fight would make it harder for GOP leaders to negotiate with the president on immigration.

**Obama’s not pushing and it won’t pass or doesn’t solve the impact.**

**Sanders 10/28/13** (Bob, Sun Sentinel, “Bob Ray Sanders: There's no better time for Obama to push immigration reform”, [http://www.sun-sentinel.com/news/opinion/fl-bscol-immigration-oped1028-20131028,0,1244020.story](http://www.sun-sentinel.com/news/opinion/fl-bscol-immigration-oped1028-20131028%2C0%2C1244020.story), ZBurdette)

Just a few months ago, immigration reform looked promising, garnering bipartisan support in the Senate. A measure that was long overdue passed the upper chamber in Congress last June, but has been stalled in the House as recalcitrant Republicans simply couldn't stomach the idea of providing a path to citizenship for the millions of illegal immigrants already in the country.

While the Senate bill has its faults — including adding 700 miles of new fencing along the U.S.-Mexico border — it is a compromise that, if passed, would be a giant step toward improving the entire immigration system and, at the same time, bringing illegal immigrants out of the shadows.

Obama got re-elected partly on his promise to pursue the issue aggressively, receiving 71 percent of the Latino vote. **He has not been as aggressive as many would like**, even though they're willing to cut him a little slack because of all the uncontrollable international crises and manufactured domestic distractions (like the shutdown of the government) he has had to deal with.

But he shouldn't let anything get in his way this time, even though Republicans in the House are vowing not to negotiate with him because the president stood his ground and refused to negotiate on his healthcare law in connection with raising the debt ceiling and ending the government shutdown.

House Speaker John Boehner, who has refused to bring the Senate bill to a vote, has said he won't bring any immigration legislation to the floor until a majority of his Republican caucus agrees.

That, in effect, means never. Or, if there is a bill that the majority of his party would support, you can almost bet it will be terribly inadequate, one that would not pass the Senate and one that the president wouldn't sign if it did.

**At best, won’t pass until after midterms.**

**Chotiner 10/25/13** (Isaac, The New Republic, “Immigration Reform is Doomed. At Least For Now.”, <http://www.newrepublic.com/article/115348/immigration-reform-cannot-pass-midterm-elections>, ZBurdette)

The New Republic's Alec MacGillis offers up various reasons why immigration reform has a better chance of passing in the next year than conventional wisdom currently holds. I appreciate his optimism, but immigration is doomed—at least until after the midterm elections.

Alec is probably right that a few things have improved the prospects for a bill. House Speaker John Boehner, who clearly wants one, is in a stronger position with his caucus than he was even several months ago. Immigration reform has several rich backers. President Obama is desperate for a bill. And Congress, after the shutdown debacle, may feel the need to make it appear as if something, anything can come out of Washington. Unfortunately, **all of these things** pale in comparison **to the** larger question **of whether the bill is in the interest of House Republicans**, and the party more generally. Here is Alec's take:

It’s in the Republicans’ interest. Why would the cautious, conflict-averse Boehner want to put himself through the hassle, even if he does have a path forward? Because, of course, he and so many other leaders of his party and the conservative movement—Paul Ryan, Karl Rove, Grover Norquist—grasp that the party cannot continue be seen as obstructing immigration reform by the country’s growing legions of Hispanic and Asian-American voters. Yes, many of the same leaders were warning the hard-liners in the House and Senate off of the defund-Obamacare government-shutdown path to no avail, but those warnings were highly ambivalent, a matter of tactical disagreement after years in which the leaders had been banging the same anti-Obamacare drum. Whereas in this case the leaders are truly in favor of immigration reform, even if just for reasons of self-preservation.

This may be true, but it suggests—in the best case scenario—that Congress passes a bill after the midterms, rather than before them. Pretend you are a House Republican, and thus in almost all cases are from a very conservative district. What is your incentive to pass an immigration bill before November 2014? Not only would it make you vulnerable to a primary challenge, but it isn't even obvious that it would strengthen your position in the general election, especially considering the way House districts are drawn, and that non-presidential election years tend to have older and whiter electorates.

Alec is right that eventually Republicans need to stop bleeding minority votes. But that is part of a long, long, long-term project. Politics is a zero-sum game, and if Obama signs an immigration bill, the Democrats are going to get most of the credit. Ideally, then, Republicans could win the 2016 election without supporting immigration reform and have a Republican president sign the bill. (They blew their chance in 2007.) But it may be hard to win the next election without doing so. Still, even in 2016, with a bigger electorate, it still isn't necessarily in the interests of Republican congressmen to support a bill.

Immigration reform is going to be, at best, a tough sell in 2015. Before the next congressional election, it's a nearly impossible dream.

PC not key

Fox 10/28**/13** (Fox News, “Republican lobbying groups step up push on House to pass immigration reform”, October 28, 2013, http://www.foxnews.com/politics/2013/10/28/republican-lobbying-groups-step-up-push-on-house-to-pass-immigration-reform/, ZBurdette)

Republicans who back immigration reform are ramping up their push to get the House to bring legislation to the floor, as the issue threatens to potentially create a public divide within the GOP.

The Wall Street Journal reports the group Republicans for Immigration Reform is building up its lobbying efforts in Washington, releasing a web ad last week urging the House to act that has been viewed over 600,000 times, according to the group.

This week, the New York Times reports a coalition of about 600 mostly Republican leaders in business and agriculture will begin an effort to lobby 80 GOP representatives on the issue. Some GOP donors are also reportedly privately withholding their contributions from members of Congress who oppose action of immigration reform.

The issue has the potential to divide GOP lawmakers again after public in-party fighting over the recent budget negotiations.

The New York Times reports that while some House members and House Speaker John Boehner are pushing for the lower chamber of Congress to pass its own immigration legislation before the end of the year; some conservative lawmakers have said they will not act on the issue regardless of pressure.

## 1AR

### Impact

#### Global nuclear war

Saab, visiting fellow – Center for Nonproliferation Studies, PhD candidate in govt and politics – U Maryland, ‘11

(Bilal and Nicholas Blanford, “THE NEXT WAR: How Another Conflict between Hizballah and Israel Could Look and How Both Sides are Preparing for It,” Saban Center for Middle East Policy at Brookings, August)

Peace, however, might not endure indefinitely. Both sides are as worried about each other’s intentions today as they were five years ago, and their military forces continue to be on alert and poised for renewed confrontation. Mutual fears and suspicions have in fact deepened due to increasingly threatening verbal exchanges and aggressive military buildups. Given the substantial military preparations undertaken by both sides, the next war between Hizballah and Israel will be far more destructive than any previous conflict between these two enemies over the past thirty years. As such, a new conflict between Israel and Hizballah will have drastic, long-term implications for the politics and security of the Middle East. First, a war—and the expected large-scale destruction that would result—would profoundly undermine Lebanon’s already delicate balance and fragile stability, an outcome that would cause great harm to U.S. long-term interests and goals in the country. Specifically, a weaker and more unstable Lebanon would be unable to shield itself from foreign intervention and various threats at home and abroad, secure its borders, and provide a security alternative to Hizballah. Another destructive war against Hizballah, which would most likely fall short of decisively defeating the group, would undermine the project of state-building and deepen Lebanon’s societal and sectarian divides, possibly leading to widespread political violence. Second, another war between Hizballah and Israel could threaten to derail the process of democratization taking place in the region or, at the very least, strengthen the popularity of anti-U.S. factions. Instead of channeling their energy and devoting their resources to governance and economic issues, Arab countries would likely focus on the war and some could seek to offer both material and non-material support to Hizballah. Moreover, another war with Israel would complicate the efforts of pro-democracy activists to achieve their goals because their autocratic leaders could use the excuse of war and the corresponding threat to national security to crack down harder and postpone reforms indefinitely. In countries where reforms have begun, such as Egypt and Tunisia, another major war against an Arab entity— Hizballah—in which the United States sides with Israel (or stands silently on the sidelines) could raise the popularity of nationalist and anti-U.S. factions and possibly help their candidates gain in the upcoming elections.2 Third, another large-scale Israeli military campaign against Hizballah that fails in its objectives would probably enhance Iran’s strategic foothold in the region and strengthen its bargaining position in its negotiations with the West over its nuclear enrichment program. Hizballah’s military arsenal directly contributes to Tehran’s leverage and bargaining power by serving as a potent deterrent against an attack by the West and/or Israel against Iran’s nuclear infrastructure. In short, a war between Hizballah and Israel would have devastating consequences for both sides, the region as a whole, and U.S. strategic interests in the Middle East. Indeed, given Hizballah’s extensive military preparations and Israel’s pattern of using heavy force in conflicts, the next war will likely be of a magnitude, lethality, and scope that would make the 2006 conflict pale in comparison. Because of its expected scale, the next war could easily spiral out of control and involve Iran, Syria, and other states or sub-state actors in the region. Indeed, the next war may end up being a “transformational” event in the Middle East.3 Therefore, understanding the drivers that could lead to another military confrontation is crucial so that parties who wish to try to prevent this outcome can design their policies accordingly.

### at: Imminence = too broad

Imminence standard aren’t broad

Benjamin Wittes, editor in chief of Lawfare and a Senior Fellow in Governance Studies at the Brookings Institution. He is the author of several books and a member of the Hoover Institution's Task Force on National Security and Law, 2/27/13, In Defense of the Administration on Targeted Killing of Americans, www.lawfareblog.com/2013/02/in-defense-of-the-administration-on-targeted-killing-of-americans/

A great deal of confusion and anxiety about the targeting of American citizens has flowed from the inelegant discussion in the White Paper of the word “imminent.” Neither the White Paper nor Holder’s speech makes clear what precise legal question the concept of imminence is addressing in its analysis. It is a bit of a mystery, in fact, whether the administration is using it to address resort-to-force matters under international law, domestic separation-of-powers questions, issues of the constitutional rights of the targets, as a possible defense against criminal prohibitions on killing Americans, or perhaps as a prudential invocation of the standards of international human rights law. What is clear is that the administration, for whatever reason, has limited itself in targeting Americans overseas to circumstances of an imminent threat. And its specific characterization of imminence has produced a barrage of criticism. The criticism, in my view, is unwarranted and rests on a misreading of the White Paper. Although it is true that the administration is using the term in a manner slightly relaxed from its common-sense meaning, many **commentators** and media figures **are dramatically overstating the degree of relaxation**. A word of explanation on this point is in order.

The term “imminent threat,” as the administration uses it, is something of a term of art—one that does not equate precisely to the common understanding of the word.Attorney General Holder has openly emphasized—consistent with the U.S. view of imminence in other national-security law circumstances—that this use does not mean imminence in some immediate temporal sense. It does not mean, for example, the last chance to act before disaster strikes. Rather, this definition of imminence incorporates a more flexible notion of an open window in time to address a threat which, left unaddressed, has independent momentum toward an unacceptable outcome. The Constitution, Holder explained,

does not require the president to delay action until some theoretical end-stage of planning—when the precise time, place, and manner of an attack become clear. Such a requirement would create an unacceptably high risk that our efforts would fail and that Americans would be killed.

Whether the capture of a U.S. citizen terrorist is feasible is a fact-specific, and potentially time-sensitive, question. It may depend on, among other things, whether capture can be accomplished in the window of time available to prevent an attack and without undue risk to civilians or to U.S. personnel. Given the nature of how terrorists act and where they tend to hide, it may not always be feasible to capture a United States citizen terrorist who presents an imminent threat of violent attack. In that case, our government has the clear authority to defend the United States with lethal force.

The White Paper’s wording on the subject of imminence is unfortunately imprecise, but it should not be over-read as authorizing—as one journalist put it—the killing of top Al Qaeda leaders “even if there is no intelligence indicating they are engaged in an active plot to attack the U.S.” In reality, the White Paper says something much more modest: that a finding of imminence does not require “clear evidence” that “a specific attack” will take place in the “immediate future.” It goes on to say that for those senior Al Qaeda leaders who are “continually planning attacks,” one has to consider the window of opportunity available in which to act against them and the probability that another window may not open before an attack comes to fruition. The result is that a finding of imminence for such a senior-level Al Qaeda operational leader can be based on a determination that such a figure is “personally and continually” planning attacks—not on a determination that any one planned attack is necessarily nearing ripeness.

The confusion arises largely out of a single, poorly-worded and easily misunderstood passage on page 8 of the White Paper:

a high-level official could conclude, for example, that an individual poses an “imminent threat” of violent attack against the United States where he is an operational leader of Al Qa’ida or an associated force and is personally continually involved in planning terrorist attacks against the United States. Moreover, where the al-Qa’ida member in question has recently been involved in activities posing an imminent threat of violent attack against the United States, and there is no evidence suggesting that he has renounced or abandoned such activities, that member’s involvement in al-Qa’ida’s continuing terrorist campaign against the United States would support the conclusion that the member poses an imminent threat.

The temptation is to read this passage broadly, as stating that targeting may be predicated on nothing more than an unrenounced history of plotting attacks—and without regard for the target’s present-day activities. In my view, however, such a reading places the White Paper at odds both with other public administration statements and with the history of U.S. interpretation of “imminence” in the international law context. The better way to understand the passage is that the first sentence of the paragraph states the general rule: that an Al Qaeda operational leader may be considered an imminent threat if he is “personally continually” planning attacks against the United States. The second sentence states the view that when evaluating whether a potential target is personally and continually planning such attacks, his recent activity is important to that evaluation, and a recent history of plotting major attacks will tend to support the inference that a person is currently plotting as well—at least to the extent it is not contradicted by some sort of renunciation of violence.

Read this way, the passage strikes me as both correct and unsurprising. If one is trying to assess whether Anwar Al Aulaqi is personally and continually planning major attacks against the U.S., after all, surely it is not irrelevant that he had only recently coaxed Umar Farouk Abdulmutallab onto a plane with a bomb, emailed with would-be terrorists in Britain about how to carry out attacks on aviation, and corresponded with Nidal Hassan in the run-up to the latter’s shooting at Fort Hood. To the contrary, surely this pattern of behavior supports an inference—at least to some extent—that this is a person who is continually plotting attacks of this nature. And surely it is also relevant that the possible target has not merely failed to renounce participation in such attacks but is also continuing to release videos calling for them.

Whether a pattern of this sort would adequately and on its own support a finding that an individual is continually involved in plotting major attacks would likely depend on how recent the pattern was, and how extensive. But there is nothing especially remarkable about the government’s position that for senior operational figures, recent past leadership conduct of an operational nature can serve as probative evidence of a figure’s current role.

While the precise contours of the administration’s thinking on the subject will remain unclear as long as it refuses to release the underlying legal memoranda, there is good reason to believe that this narrower reading of the White Paper’s “imminence” language—and not the more expansive readings—accurately reflects the administration’s thinking.

Unless and until the broader readings of the White Paper’s imminence language are confirmed to reflect administration thinking, **there is no reason to believe that the government has adopted a concept of imminence so expansive as to widen the narrow conception of the category** the administration has declared the lawful authority to target. Nor is there any evidence to suggest that the government is, in fact, targeting Americans based on nothing more than a distant pattern of past acts.

### Politics

### Impact

Political science disproves nationalism

Jervis, professor of political science – Columbia University, ‘11

(Robert, Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425)

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

No diversionary wars – prefer our evidence

**Fravel**, Associate Prof Poli Sci, Security Studies Program – MIT, **‘10** (M. Taylor, “The Limits of Diversion: Rethinking Internal and External Conflict,” *Security Studies*, 19:2, 307 – 341)

Yet despite two decades of renewed research, cumulative knowledge on diversion remains elusive. Quantitative studies contain mixed and often contradictory empirical results regarding the relationship between internal and external conflict. Some studies find a positive relationship between indicators of domestic dissatisfaction and threats or uses of force in analysis of u.s. behavior7 and in cross-national studies.8 By contrast, other research identifies a weak or nonexistent relationship between these same variables.9 Indeed, the gap between the intuition underlying diversion as a motive for conflict and existing quantitative research that Jack Levy noted in 1989 continues to characterize this research program today.10

Given the mixed empirical results in recent quantitative research, this article offers a different type of test of the diversionary hypothesis. In particular, I extend efforts to employ case study methods to test the hypothesis systematically and against alternative explanations in specific episodes of historical interest.11 Adopting a modified “most likely” approach to theory testing pioneered by Harry Eckstein, I examine two cases that should be easy for diversionary theory to explain: Argentina's 1982 seizure of the Falkland (Malvinas) Islands and Turkey's 1974 invasion of Cyprus. In these episodes, high levels of domestic political unrest preceded the escalation of salient disputes that leaders could manipulate to rally public support or demonstrate their competence as statesmen.

These cases should be homeruns for the diversionary hypothesis, **but they are** in fact **quite difficult for it to explain.** In these cases, the relationship between domestic political conflict and dispute escalation is weak at best, as the onset and magnitude of social unrest was only linked loosely with decisions to use force. Leaders' statements and reasoning provide little evidence for diversion as a central motivation for escalation. Instead, a standard realist model of international politics and the dynamics of coercive diplomacy offer a more compelling explanation of Argentine and Turkish decision making.12 Leaders in both states chose force in response to external threats to national interests, not internal threats to their political survival.

#### Global housing bubble overwhelms

Bull, writer for Reuters, 10/14/2013

(Alister, “Nobel Prize U.S. winner warns of 'bubbly' global home prices,” http://www.reuters.com/article/2013/10/14/us-nobel-economics-idUSBRE99D07F20131014)

One of three American economists **who won the** 2013 **economics Nobel** prize on Monday for research into market prices and asset bubbles **expressed alarm at the rapid rise in global housing prices**.

Robert Shiller, who shared the 8 million Swedish crown ($1.25 million) prize with fellow laureates Eugene Fama and Lars Peter Hansen, said the U.S. Federal Reserve's economic stimulus and growing market speculation were creating a "bubbly" property boom.

The Royal Swedish Academy of Sciences lauded the economists' research on the prices of stocks, bonds and other assets, saying "mispricing of assets may contribute to financial crises and, as the recent global recession illustrates, such crises can damage the overall economy."

This was the case in the collapse of the U.S. housing market, which helped trigger the 2008-2009 global financial crisis. Markets are at risk of committing the same error now, Shiller told Reuters after learning he had won the Nobel prize.

### 1ar – pounders

Kills Obama’s focus

Terrence Burlij, PBS News Hour, 10/25/13, Obama agenda hinges on health care fixes, www.pbs.org/newshour/rundown/2013/10/obama-agenda-hinges-on-health-care-fixes.html

The day after Congress approved a measure to end the government shutdown and raise the nation's debt limit, President Barack Obama moved swiftly to refocus the debate for the remainder of the year on three key agenda items: a long-term budget deal, immigration reform and passing a farm bill.

The Morning Line

**But in the week that has elapsed since the president outlined** those **priorities**, much of the **post-shutdown attention has been centered on the difficulties with the online health care exchange**, and lawmakers on Capitol Hill have signaled that at least two of the three **items on** Mr. **Obama's list might not be in the cards this year**.

Budget and Obamacare fights before immigration—scuttles a deal

Allie Jones, 10/24/13, The Slim Chance for Immigration Reform, www.theatlanticwire.com/politics/2013/10/slim-chance-immigration-reform/70892/

Most pundits would tell you that immigration reform won't get done this year or next year. The House GOP is still obsessed with Obamacare; Boehner was tweeting about the health care law during Obama's speech. Beyond that, Congress needs to reach a budget agreement sooner than it needs to pass immigration reform. As Republican Rep. Aaron Schock said last week, "I know the president has said, well, gee, now this is the time to talk about immigration reform. He ain't gonna get a willing partner in the House until he actually gets serious about ... his plan to deal with the debt."

### Budget pounder

Kaplan says Obama’s not involved now—our ev says he’ll have to be in December when the supercommittee makes recommendations

This article is all neg

Kaplan, CBS News, 10-17-13

[Rebecca, “Obama's priorities for the year: Budget, immigration and farm bill” <http://www.cbsnews.com/8301-250_162-57607996/obamas-priorities-for-the-year-budget-immigration-and-farm-bill/>, accessed 10-25-13, TAP]

President Obama said Thursday morning that his top three priorities for the rest of the year will be passing a budget, immigration reform, and a farm bill now that the government has been reopened and a default averted.

It's a tall order for a Congress that that remains bitterly divided even after an agreement was reached to end the latest crisis. Although Mr. Obama made out far better than Republicans, he did little to hold back his lingering frustration with his opponents and said the ways of Washington had to change.

"Let's be clear: there are no winners here. These last few weeks have inflicted completely unnecessary damage on our economy," he said. "The American people's frustration with what goes on in this town has never been higher. That's not a surprise, that the American people are completely fed up with Washington. At a moment when our economic recovery demands more jobs, more momentum, we've got another self-inflicted crisis that set our economy back. And for what? There was no economic rationale for all of this."

The top priority for the coming weeks will be passage of a budget, a process that has been stalled in Congress all year. Part of the deal brokered to reopen the government and lift the debt ceiling included instructions to the congressional leadership to appoint negotiators to craft a budget deal by mid-December.

The chairmen and ranking members of the House and Senate Budget Committees met for breakfast Thursday morning. All of the members described the meeting as positive and declined to start negotiating details in front of the press.

"We want to look for ways to find common ground and to get a budget agreement. Our goal is to do good for the American people. To get our debt under control. To do smart deficit reduction. And to do things we think can grow the economy and get people back to work," said House Budget Committee chairman Paul Ryan, R-Wis. Senate Budget Committee chairwoman Patty Murray, D-Wash., acknowledged that reconciling the House and Senate budgets will be challenging, but said, "those issues are all on the table. We'll be talking about all of them and our job is to make sure we have put forward a spending path and a budget path for this Congress in the next year or two or further if we can."

White House press secretary Jay Carney indicated to reporters Thursday afternoon that Mr. Obama would stand back and let Congress take the lead in budget talks. "What we are hopeful about is that Congress will seize an opportunity here to return to what has become known as regular order, which is have a budget conference where appointed members of the House and the Senate come together to try to reach a compromise budget," he said. The president's FY2014 budget, which was released earlier this year, reflects his priorities.

The committee has a major challenge ahead of them. Past groups have had little success reaching agreement.

The committee has a major challenge ahead of them. Past groups have had little success reaching agreement.

But Mr. Obama's other two priorities for the rest of the year - immigration reform and a farm bill - could prove equally challenging.

The Senate passed a comprehensive reform bill in June that House Republicans have said is a non-starter in the lower chamber. House Judiciary Committee Chairman Bob Goodlatte, R-Va., has advanced a series of single-issue bills that have no Democratic support, and House Democrats introduced a version of the Senate bill that includes a border-security plan with bipartisan support in the House. A bipartisan working group that had been crafting a comprehensive bill for the House collapsed last month.

Rep. Raul Labrador, R-Idaho, who was once a member of the bipartisan group now says that it would be "crazy" and "a very big mistake" for Republicans to negotiate with the president on immigration reform.

The farm bill, usually a bipartisan bill, barely made it out of the House of Representatives this year after Republicans demanded steep cuts in the food stamp program. The GOP leadership had to split the agriculture and food stamp components into two pieces to pass it, but the food stamp section seeks cuts nearly 10 times what Senate Democrats have proposed, meaning an agreement will be hard to reach.

Still, Mr. Obama said those three issues - the budget, immigration reform and a farm bill - "are three specific things that would make a huge difference in our economy right now. And we could get htem done this year, if our focus is on what's good for the American people."

Comes first

Jeff Mason, Reuters, 10/19/13, Analysis: Despite budget win, Obama has weak hand with Congress , health.yahoo.net/news/s/nm/analysis-despite-budget-win-obama-has-weak-hand-with-congress

The first test of whether lawmakers can avert another crisis comes as a bipartisan panel considers a plan, due by December 13, to reduce the deficit. Under the compromise forged last week, the government would be funded through January 15 and the debt ceiling lifted through February 7.That tight time frame does not allow much room for the president's other policy priorities to gain traction.

### Uq

Clift concedes Obama’s not key----[[GREEN]]

Clift, Daily Beast, 10-25-13

(Eleanor, “Obama, Congress Get Back to the Immigration Fight,” http://www.thedailybeast.com/articles/2013/10/25/obama-congress-get-back-to-the-immigration-fight.html, accessed 10-26-13, CMM)

After months of relative quiet on the subject of immigration reform, President Obama reclaimed center stage in an event in the East Room of the White House Thursday, urging the Republican-controlled House to take up bipartisan legislation passed in June by a big margin (68-32) in the Senate.¶ “It doesn’t get easier to put off,” he said, a pointed reminder to Republicans that the politics are stacked against them if they punt on an issue of central importance to the fastest growing bloc of voters in the country. Neutralizing the Democrats’ advantage among Hispanics is crucial to the GOP’s presidential prospects, and could improve Congress’ image in the wake of the government shutdown. “Rather than create problems, let’s prove to the American people that Washington can actually solve some problems,” Obama implored.¶ Among those assembled in the East Room for the president’s remarks was Frank Sharry, founder and director of America’s Voice and a longtime activist for immigration reform.¶ Asked what he was thinking as he listened to Obama’s 12-minute speech, he termed it “a modest push,” noting that Obama has been “remarkably restrained” on the issue when you consider that overhauling the nation’s broken immigration system is his top second-term priority. Obama sidelined himself in deference to Republicans who needed room to build support without being aligned with a president so many in the GOP caucus reflexively dislike. ¶ But now with the shutdown behind them and Republicans on the defensive, Obama saw an opening to get back in the game. His message, says Sharry: “‘Hey, I’m flexible,’ which after the shutdown politics was important, and he implied ‘if you don’t do it, I’m coming after you.’” For Obama and the Democrats, immigration reform is a win-win issue. They want an overhaul for the country and their constituents. If they don’t get it, they will hammer Republicans in demographically changing districts in California, Nevada, and Florida, where they could likely pick up seats—not enough to win control of the House, but, paired with what Sharry calls “the shutdown narrative,” Democratic operatives are salivating at the prospect of waging that campaign. ¶ Some Republicans understand the stakes, and former vice-presidential candidate and budget maven Paul Ryan is at the center of a newly energized backroom effort to craft legislation that would deal with the thorniest aspect of immigration reform for Republicans: the disposition of 11 million people in the country illegally. Rep. Raul Labrador (R-ID), an early advocate of reform who abandoned the effort some months ago, argues that Obama’s tough bargaining during the shutdown means Republicans can’t trust him on immigration. “When have they ever trusted him?” asks Sharry. “Nobody is asking them to do this for Obama. They should do this for the country and for themselves.... We’re not talking about tax increases or gun violence. This is something the pillars of the Republican coalition are strongly in favor of.” ¶ Among those pillars is Chamber of Commerce President Tom Donahue, who on Monday noted the generally good feelings about immigration reform among disparate groups, among them business and labor. He expressed optimism that the House could pass something, go to conference and resolve differences with the Senate, get a bill and have the president sign it “and guess what, government works! Everybody is looking for something positive to take home.”¶ The Wall Street Journal reported Thursday that GOP donors are withholding contributions to lawmakers blocking reform, and that Republicans for Immigration Reform, headed by former Bush Cabinet official, Carlos Gutierrez, is running an Internet ad urging action. Next week, evangelical Christians affiliated with the Evangelical Immigration Table will be in Washington to press Congress to act with charity toward people in the country without documentation, treating them as they would Jesus. The law-enforcement community has also stepped forward repeatedly to embrace an overhaul.¶ House Speaker John Boehner says he wants legislation, but not the “massive” bill that the Senate passed and that Obama supports. The House seems inclined to act—if it acts at all—on a series of smaller bills starting with “Kids Out,” a form of the Dream Act that grants a path to citizenship for young people brought to the U.S. as children; then agriculture-worker and high-tech visas, accompanied by tougher border security. The sticking point is the 11 million people in the country illegally, and finding a compromise between Democrats’ insistence that reform include a path to citizenship, and Republicans’ belief that offering any kind of relief constitutes amnesty and would reward people for breaking the law. ¶ The details matter hugely, but what a handful of Republicans, led by Ryan, appear to be crafting is legalization for most of the 11 million but without any mention of citizenship. It wouldn’t create a new or direct or special path for people who came to the U.S. illegally or overstayed their visa. It would allow them to earn legal status through some yet-to-be-determined steps, and once they get it, they go to the end of a very long line that could have people waiting for decades. The Senate bill contains a 13-year wait.¶ However daunting that sounds, the potential for meaningful reform is tantalizingly close with Republicans actively engaged in preparing their proposal, pressure building from the business community and religious leaders, and a short window before the end of the year to redeem the reputation of Congress and the Republican Party after a bruising takedown. The pieces are all there for long-sought immigration reform. We could be a few weeks away from an historic House vote, or headed for a midterm election where Republicans once again are on the wrong side of history and demography.

### Piecemeal fails

Even piecemeal will be hard- Republicans unwilling to give Obama a victory and pol cap cant overcome

Reid Epstein, Politico, 10/17/13, Obama’s latest push features a familiar strategy, dyn.politico.com/printstory.cfm?uuid=00B694F1-5D59-4D13-B6D1-FC437A465923

The earlier assessment reflects the tough reality: over on Capitol Hill, **the Republicans forced to accept the fiscal deal on Obama’s terms are hardly in the mood to give the president another political victory.**

Speaker John Boehner’s spokesman said House Republicans will stick with a piecemeal approach to immigration reform.

“The speaker remains committed to a common sense, step-by-step approach that ensures we get immigration reform done right,” spokesman Brendan Buck said Thursday. “That’s why the committees of the House continue to work on this important issue.”

Rep. Raul Labrador (R-Idaho), who quit the House immigration group, said there’s no chance of a bicameral reform bill getting to Obama.

“I think it would be crazy for the House Republican leadership to enter into negotiations with him on immigration,” Labrador said Wednesday. “I think what he has done over the last two and half weeks, he’s trying to destroy the Republican Party and I think that anything we negotiate right now with the president on immigration will be with that same goal in mind, which is **to destroy the Republican Party** and not to get good policies.”

And Sen. Jeff Sessions (R-Ala.) **called it “unthinkable” that Obama would press his immigration push so soon after the fiscal crises.**

“All over the country, Americans are struggling to find work,” Sessions said. “It is unthinkable that the president would continue to lobby Congress on behalf of special interests in order to double the flow of immigrant workers into the country, as bills in both the House and Senate propose.”

It is exactly that sort of say-no attitude among Republicans that the White House has signaled it will highlight in its immigration push.

Piecemeal means Democrats block

**Didymus, 10/25/13 -** JOHNTHOMAS DIDYMUS is based in Lagos, Lagos, Nigeria, and is an Anchor for Allvoices(Johnthomas, “House GOP plans to punish Obama after shutdown by not voting immigration reform” <http://www.allvoices.com/contributed-news/15820604-house-gop-plans-to-punish-obama-after-shutdown-by-not-voting-immigration-reform>)

Despite the push by the Obama administration to get comprehensive immigration reform passed by the end of the year, there are signs House Republicans will refuse to vote on immigration reform this year.

The enthusiasm of the Obama administration for immigration reform is shown in the fact that before the budget crisis was fully resolved, President Barack Obama’s attention shifted to the challenge of comprehensive overhaul of the nation's immigration system, which he considered the next big issue to tackle after the budget crisis.

But House Republicans are saying that they will punish Obama for refusing to negotiate with them over Obamacare and the debt ceiling by refusing to vote immigration reform in 2013.

Allvoices noted that although House Speaker John Boehner (R-Ohio) said Wednesday that “immigration reform is an important subject that needs to be addressed," his non-committal attitude contrasts with the urgency of the Obama administration.

According to USA Today, there is practically no interest among GOP lawmakers to vote on a comprehensive reform bill. The best chance of anything being done on immigration reform this year is if Republicans can win support of Democrats for their preferred piecemeal bills, all of which exclude a path to citizenship for undocumented immigrants.

Democratic opposition to the piecemeal approach has made Republicans even more pessimistic about the prospects of any move in Congress this year on immigration reform.

The Huffingnton Post reports that Democrats have said unequivocally that they will not support any of the piecemeal bills because they fear that Republicans will skirt the core issues and address only those issues that Republicans are concerned with.

Republicans are concerned about immigration reform issues such as improved border security and legal immigration. The core issue for Democrats is a path to citizenship for undocumented immigrants.

Rep. Joe Garcia (D-Fla.) voiced the concern among Democratic lawmakers when he said, "There is a problem with comprehensive immigration reform, and we know what it is. The idea that that same party who cannot pass anything... is now piecemeal going to do this is a fallacy."

After their defeat in the fiscal crisis, House Republicans loathe the idea of having to negotiate with Senate Democrats and the White House on immigration reform.

### Pc not key

Electoral concerns trump the internal link---the ONLY House Republican on board supports it because his district is overwhelmingly Latino.

Simon 10/27**/13** (Richard, “Immigration: California Republican Rep. Denham backs overhaul bill”, http://www.latimes.com/nation/politics/politicsnow/la-pn-immigration-denham-20131027,0,4393251.story#axzz2j18CotzV, ZBurdette)

California Rep. Jeff Denham is the first House Republican to join Democrats in co-sponsoring a broad immigration overhaul bill that would provide a path to citizenship for millions of immigrants in the country illegally.

"We can’t afford any more delays," the Central Valley lawmaker said in a statement Sunday. "I support an earned path to citizenship to allow those who want to become citizens to demonstrate a commitment to our country, learn English, pay fines and back taxes and pass background checks."

The Republican from Turlock called the legislation "a common-sense solution to our broken system."

Denham signed onto a bill House Democrats introduced this month, the Border Security, Economic Opportunity, and Immigration Modernization Act. It mostly parallels the bill passed by the Senate in June.

But prospects for House action before the end of the year are uncertain. House Speaker John A. Boehner (R-Ohio) has pledged not to bring up immigration legislation for a vote unless it is backed by a majority of his fellow Republicans, and he has no plans to bring the Senate bill up for consideration. House Republicans have favored a "step-by-step approach" to overhaul parts of the immigration system.

Frank Sharry, the head of America's Voice, an immigration reform advocacy group, called Denham’s support for the broad bill a "major crack in the dam that has been blocking reform."

Denham, now in his second term, **represents a 40% Latino district that relies on immigrants to pick crops.** He has been targeted by Democrats for next year’s election; President Obama won the district last year.